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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Memorandum of February 18, 1992

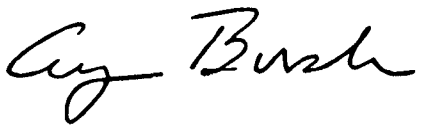
Delegation Reporting Obligations Pursuant to Section 606(f) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991

Memorandum for the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in me by section 606(f) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25, 105 Stat. 111) relating to periodic reports to the Congress with respect to contracting for the rebuilding of Kuwait.

The functions delegated by this memorandum shall be exercised in coordination with the Secretary of State, the Army Corps of Engineers, and such other executive departments and agencies as you may deem appropriate.

You are authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, February 18, 1992.

[FR Doc. 92–5052
Filed 2–28–92; 2:43 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: FINAL RULE.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule defining Pembina County, North Dakota, as an area of application to the Grand Forks, North Dakota, nonappropriated fund (NAF) Federal Wage System wage area. This will provide the basis for setting the pay for three new nonappropriated fund crafts and trades positions recently established at Cavalier Air Force Station in Pembina County.

EFFECTIVE DATE: April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848 or (FTS) 266–2848.

SUPPLEMENTARY INFORMATION: On April 16, 1991, OPM published an interim rule to define Pembina County, North Dakota, as an area of application to the Grand Forks, North Dakota, NAF Federal Wage System wage area (56 FR 15274). The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. The interim rule is being adopted as a final rule.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

Accordingly, the interim regulations published on April 26, 1991 (56 FR 15274), are adopted as final without change.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–4544 Filed 3–2–92; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF ENERGY

10 CFR Part 708

Criteria and Procedures for DOE Contractor Employee Protection Program

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: This rule establishes criteria and procedures for the investigation, hearing, and review of allegations from DOE contractor employees of employer reprisal resulting from (1) employee disclosure of information to the DOE, to members of Congress, or to the contractor, (2) employee participation in proceedings before Congress or pursuant to this rule, or (3) employee refusal to engage in illegal or dangerous activities, when such disclosure, participation, or refusal pertains to employer practices which the employee believes to be unsafe, to violate laws, rules, or regulations, or to involve fraud, mismanagement, waste, or abuse. This part is applicable to employees of DOE contractors and subcontractors performing work directly related to the activities of the DOE at DOE-owned or -leased sites. Contractors found to have discriminated against an employee in reprisal for such disclosure, participation, or refusal will be directed by the DOE to provide relief to the complainant.

EFFECTIVE DATE: This final rule is effective April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Juanita E. Smith or Armin Behr, Office of Contractor Human Resource Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9032 or (FTS) 896–9032, or Sandra L. Schneider, Deputy Assistant General Counsel for General Law, or June Davis, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8618 or (FTS) 896–8618.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

In the control and management of its production plants, research and development laboratories, test sites, and other Government-owned or -leased facilities, the DOE is responsible for safeguarding public and employee health and safety; ensuring compliance with applicable laws, rules, and regulations; and preventing fraud, mismanagement, waste, and abuse. To this end, the Secretary of Energy has taken vigorous action to assure that all such DOE facilities are well-managed and efficient, while at the same time operated in a manner that does not expose the workers or the public to needless risks or threats to health and safety. The DOE is endeavoring to involve both DOE and contractor employees in an aggressive partnership to identify problems and seek their resolution. In that regard, employees of DOE contractors are encouraged to come forward with information that in good faith they believe evidences unsafe, unlawful, fraudulent, or wasteful practices. Employees providing such information are entitled to protection from consequent discrimination by their employers with respect to compensation, terms, conditions, or privileges of employment.

Currently, there are certain statutory proscriptions against employer reprisal. For example, section 11(c) of the Occupational Safety and Health Act of 1970 (OSHA), Public Law 91–596, prohibits employers from discharging or in any manner discriminating against an employee because the employee has filed a complaint or caused to be instituted a proceeding under the Act relating to occupational safety and health. 29 U.S.C. 660(c). As a general rule, the Department of Labor (DOL) enforces the provisions of the occupational safety and health laws. However, in a 1974 agreement between DOL and DOE's predecessor agency, the Atomic Energy Commission (AEC), the AEC was recognized as possessing

express statutory authority to prescribe enforceable regulations and orders to provide health and safety protection in connection with any authorized AEC activities. (This would include the activities of DOE contractors at nuclear facilities owned or leased by the Government and operated by contractors.) As set forth in the agreement, section 4(b)(1) of OSHA (29 U.S.C. 653(b)(1)) and sections 161b. and 161i.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2201b. and 2201i.(3)) make the provisions of OSHA inapplicable to the working conditions of AEC contractor employees working in Government-owned or -leased, contractor-operated (GOCO) facilities. The agreement recognized that "AEC issues safety and health standards and enforces those standards under its contractual authority pursuant to the AEC statute." (These provisions would not be applicable to the non-nuclear facilities subsequently transferred to, or statutorily established in, DOE.)

There also exists in current law a "whistleblower" protection provision specifically applicable to Nuclear Regulatory Commission (NRC) licensees. Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) affords reprisal protection to employees of licensees of the NRC who testify, assist, or otherwise participate in proceedings designed to carry out the purposes of the Atomic Energy Act or the Energy Reorganization Act. The Department of Labor performs the adjudicative functions in section 210 proceedings. In that regard, an issue has arisen as to whether reprisal complaints made by DOE contractor employees and subcontractor employees are cognizable under the procedures set forth in section 210. In connection with several complaints of reprisal filed by employees of DOE contractors, the jurisdictional issue has prompted administrative litigation resulting in a determination by the Secretary of Labor that DOL lacks jurisdiction over DOE contractor-operated facilities, and that section 210 applies to NRC licensees only.

In view of its recognized jurisdiction over complaints of reprisal from employees of its contractors at facilities formerly operated by the AEC and the Energy Research and Development Administration, the DOE established an administrative mechanism to deal with complaints of reprisal by such employees. Under the existing procedure (which has been in effect since shortly after the inception of the DOE), a contractor employee who believes that he or she has been the object of reprisal by his or her employer with regard to disclosures involving health and safety issues in the workplace may file a complaint with the cognizant manager or head of the DOE facility involved (Head of Field Element), who is authorized to investigate and resolve the complaint. The current procedure, however, does not identify specific fact-finding procedures and makes no provision for an on-the-record hearing or review of the Head of Field Element's decision.

Accordingly, in order to assure workplace conditions at DOE facilities that are harmonious with safety and good management, the DOE intends to improve the current procedures for resolving complaints of reprisal by establishing procedures for independent fact-finding and hearing before a Hearing Officer at the affected DOE field installation, followed by an opportunity for review by the Secretary or designee. These new procedures are intended to be available to those contractor employees who allege health and safety violations, but are not covered by the DOL procedures. In addition, contractor employees who allege employment reprisal resulting from the disclosure of information relating to waste, fraud, or mismanagement, or from the participation in proceedings conducted before Congress or pursuant to this rule, or from the refusal to engage in illegal or dangerous activities, may also utilize these procedures regardless of whether they are covered by the health and safety protection procedures of DOL. This rule is not intended to cover complaints of reprisal stemming from or relating to other types of discrimination by contractors, such as discrimination on the basis of race, color, religion, sex, age, national origin, or other similar basis.

The procedures set forth in this notice resemble the procedures currently utilized by DOL in adjudicating complaints of reprisal filed under section 210 of the Energy Reorganization Act, but are tailored to the unique needs of DOE and its relationship with the contractors to which the rule will apply. The rule enlarges and clarifies current DOE policy by specifically providing that the reprisal protections apply to contractor and subcontractor employees who report what they, in good faith, believe to be a violation of law, rule, or regulation; a substantial and specific danger to public health or safety; or fraud, mismanagement, gross waste of funds, or abuse of authority. In addition, the rule protects employees who (1) participate in proceedings before Congress, (2) participate in proceedings conducted pursuant to the rule, or (3) refuse to engage in illegal or dangerous activities. The rule is designed to provide an appropriate administrative remedy if a prohibited reprisal is found to have occurred.

II. Organization

The proposed rule (published in the **Federal Register** (55 FR 9326) on March 13, 1990) was organized chronologically, from the filing of the complaint to the eventual implementation by the Head of Field Element of the final decision of the DOE.

Section 708.5 lists the types of activities for which employees are to be protected from employer reprisal. Section 708.6 sets forth the procedures to be followed for filing complaints of reprisal, and specifies the requisite contents of a complaint. Section 708.7 sets forth a 30-day time period in which the Head of Field Element or designee shall attempt an informal resolution of a complaint filed under § 708.6. Section 708.7 also sets forth the procedure for forwarding the complaint to the Director of a newly created office, the Office of Contractor Employee Protection (Director), for a preliminary determination of whether it should be summarily dismissed.

Section 708.8 sets forth the responsibility of the Director to track complaints and notify parties of their rights under the rule. It allows for dismissal of a complaint for stated reasons under certain procedures and permits any party to apply to the Secretary or designee for review of an order of dismissal. Section 708.8 also sets forth the procedures for an independent investigation, delineates the authority of the investigator to conduct the investigation, and specifies the required content of the Report of Investigation.

Section 708.9 describes the procedures for an on-the-record hearing at the DOE field installation. The rule permits a party, within 15 days of receipt of the Report of Investigation, to request a hearing on the complaint. Upon receipt of a request for a hearing, the Director is required to transmit the file to the DOE Office of Hearings and Appeals for appointment of a Hearing Officer.

Section 708.10 provides that the Director will issue the initial agency decision in cases where no hearing is requested. If a hearing is held, § 708.10 requires the Hearing Officer to issue the initial agency decision. In making initial agency decisions, the Director and Hearing Officer may rely upon, but are not bound by, the Report of

Investigation. Initial agency decisions may be appealed to the Secretary or designee.

Section 708.11 establishes the responsibility of the Secretary or designee for conducting a review of the entire record at the request of any party, and for issuing a final decision, including an order for appropriate remedy if violations are found to have occurred. The liability for costs incurred by the contractor in implementing the order issued by the Secretary or designee will be consistent with the provisions of the Department of Energy Acquisition Regulations (DEAR) and the Federal Acquisition Regulations. In this regard, a Final Rule, published in the **Federal Register** on June 19, 1991 (56 FR 28099), and amended on August 12, 1991 (56 FR 38174) and on August 26, 1991 (56 FR 41962), modified the DEAR with respect to certain contracting practices relating to cost allowability for some profit-making management and operation contractors.

Under the provisions of the DOE's contracts with the contractors to which this rule will apply, the Head of Field Element is required by § 708.12 to implement the final decision of the DOE under the rule. The original § 708.13 providing protections against conflicts of interest by the Head of Field Element when participating in a complaint under this rule has been eliminated in view of the new provisions assigning the decision-making responsibility to the Director or the Hearing Officer. Section 708.13 (former § 708.14) requires contractors to inform their employees of the Contractor Employee Protection Program set forth in this rule. Proposed § 708.15 (now § 708.14) has been modified to provide that the Secretary of Energy may, if he deems it in the public interest, refer any complaints filed pursuant to this rule to other Federal agencies for investigation and factual determination. Proposed § 708.16 (now § 708.15) has been modified to permit the Secretary or designee to extend the time frames set forth in the rule. Conforming amendments to the DEAR, as necessary, will be proposed by a separate rulemaking.

III. Public Comment

The proposed rule was published in the **Federal Register** (55 FR 9326) on March 13, 1990. Interested persons were invited to submit written comments and a public hearing was held in Washington, DC, on May 4, 1990. The DOE received 19 pieces of correspondence: 7 from contractor employees and employee interest groups; 7 from contractors and contractor associations; and 5 from members of Congress. One individual appeared in person to speak at the public hearing. The comments addressed the following areas of concern:

A. Authority

Comments received questioned the DOE's authority to promulgate this rule. This rule is issued pursuant to the broad authority granted the agency by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201), the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5814 and 5815), and the Department of Energy Organization Act, as amended (42 U.S.C. 7251, 7254, 7255, and 7256) to prescribe such rules and regulations as necessary or appropriate to protect health, life, and property and the otherwise administer and manage the responsibilities and functions of the agency. Subpoena authority is specifically vested in the Secretary (and may be delegated to his duly authorized agents) by section 645 of the Department of Energy Organization Act, as amended (42 U.S.C. 7255).

B. Scope of the Rule

Comments received respecting the scope of the rule fell into the following categories: (1) Extension of the rule's applicability to all subcontractors; (2) expansion of the rule's protection to cover disclosures made to contractors, labor unions, citizen groups, the press, State and Federal regulatory officials, and members of Congress; (3) extension of the rule to protect employees who are subject to disciplinary action for refusal to engage in illegal or dangerous activities; (4) clarification of whether the rule is applicable to disclosures of security violations; and (5) clarification of the rule's coverage of employees who have "participated" in proceedings under this part 708.

1. Extension of the Rule to Cover Employees of all Subcontractors

Correspondence received in response to the request for comment on extension of the rule to cover employees of subcontractors at all tiers tended to support such an extension on grounds that the interests protected under the rule are equally valid for employees of all subcontractors. Comments stating that the rule should not be extended to all tiers of subcontractors reasoned that such a rule would be difficult to administer, that it would result in reluctance on the part of subcontractors to do work under DOE prime contracts, and that it would make it difficult to meet DOE goals of placing a fair proportion of acquisitions with small businesses and small disadvantaged businesses. The DOE believes that the health and safety of all contractor employees is of utmost importance and overrides enforcement and administrative difficulties that could be incurred in extending the rule to second- and lower-tier subcontractors. In consideration of these comments, § 708.4 has been amended to make the rule applicable to contractors at all tiers, and the exclusion for contracts not exceeding $25,000 has been deleted.

2. Disclosures Made to Parties Other than DOE

Comments were received advocating expansion of the rule's protection to cover, in addition to disclosures made to DOE, in-house disclosures made to the complainant's employer, and disclosures made to labor unions, citizen groups, the press, State and Federal regulatory officials, and members of Congress.

The DOE encourages cooperation between employees and management to achieve the goals of safe and efficient operations of DOE facilities, and views such cooperation as imperative. This is reflected in the requirement of § 708.6 that an employee exhaust internal company remedies to the extent possible prior to filing a complaint under this part. Internal company remedies include procedures provided for in negotiated collective bargaining agreements.

The DOE has determined to afford protection to employees who have made disclosures to contractors. Disclosures to contractors will include quality assurance reports and other similar reports made in the course an employee's job responsibilities. Due to the responsibility of the Congress for oversight of the Executive Branch, § 708.5(a)(1) also has been amended to include disclosures made to members of Congress within the scope of the rule's protection.

A fundamental purpose of this rule is to encourage individuals to feel free to disclose to the DOE information relative to health and safety problems or mismanagement at DOE-owned or -leased facilities so that the DOE can take corrective action. The DOE does not believe that disclosures to other parties fosters this objective. Additionally, the DOE believes that extension of this rule to employees making disclosures to other parties could unduly complicate these procedures with evidentiary problems respecting whether a disclosure had actually been made. A factual issue of this sort could allow the rule to be used as a vehicle by disgruntled employees to shield themselves from adverse

personnel action merely by alleging that a disclosure had been made. Consequently, for the reasons stated, the DOE is reluctant to extend protection under this part to disclosures made to other parties.

Thus, with the exception of disclosures made to members of Congress and disclosures to contractors, the DOE believes it is inappropriate to expand the rule as suggested. Employees who wish to be protected against contractor reprisal for calling attention to problems regarding health and safety, fraud, mismanagement, waste, and abuse, or any other matter covered by this rule, must disclose the problem to DOE, to a member of Congress, or to the contractor. A disclosure to any higher tier contractor will also satisfy the disclosure requirement of the rule. Disclosures to DOE can be accomplished by contacting, telephonically, in writing, or otherwise, the responsible health and safety officer at DOE field offices, the DOE Headquarters Office of Environment, Safety and Health, the DOE Headquarters Office of Nuclear Safety, or the DOE Office of Inspector General. Employees making protected disclosures to DOE may request confidentiality.

The DOE believes that circumstances may occasionally arise whereby a disclosure does not fall within the scope of the rule, but the DOE, for equitable reasons, may wish to extend coverage of the rule. Accordingly, at the discretion of the Director, complaints of reprisal which do not fall within the scope of the rule may be accepted if, after careful consideration of the circumstances surrounding such a complaint, the DOE determines that acceptance of the complaint is equitable and furthers the purpose of the rule. However, in no event will coverage under the rule be extended to employees of contractors over whom DOE does not exercise enforcement authority with respect to the requirements of this rule. The determination to accept a complaint for equitable reasons will be made on a case by case basis. A decision by the Director to reject such a complaint may be appealed to the Secretary or designee.

3. Protection of Employees Refusing to Participate in Illegal or Dangerous Activities

Comment was received stating that the rule should be extended to protect employees who refuse to participate in illegal or extremely dangerous activities. The DOE agrees, and § 708.5 has been amended to extend the protection of the rule to employees who refuse to participate in illegal activities or in activities which a reasonable person would believe pose a serious danger to the employee, other employees, or the public (provided such dangerous activity is not within the scope of the employee's employment responsibilities). Before refusing to participate in the illegal or dangerous activity, the employee must attempt through the contractor to correct the violation or eliminate the danger. If such attempt is unsuccessful and the employee refuses to participate in the illegal or dangerous activity, the employee, within 30 days following such refusal, must report the violation or dangerous activity to DOE, a member of Congress, or the contractor, and must explain the reasons why the employee believed the activity to be illegal or dangerous and thus justified a refusal to participate in the activity.

4. Disclosures Regarding Security Violations

Comment was received inquiring whether the protections afforded by the rule would extend to employees disclosing information respecting improper adherence to security requirements. Since the rule protects employees disclosing information pertaining to violations of laws, rules, or regulations, an employee disclosing a security matter evidencing a violation of law, rule, or regulation would be covered by the rule. The DOE believes the rule does not require amendment in this regard.

5. Protection of Employees Who Have "Participated" in Proceedings

Comment was received stating that § 708.5(a)(2), which affords protection to employees who have "participated" in proceedings under this part 708, should be expanded to also include those who "initiate" or "assist" in proceedings under part 708. It was not the DOE's intention to exclude from the protection of this rule employees who initiate or assist in proceedings under this part. In fact, the DOE intends that the term "participated," as used in § 708.5(a)(2), be liberally construed to include those who have initiated, assisted, or in any other manner "participated" in proceedings under part 708. The term "participated" should not, however, be construed to include those employees who, without taking some overt action toward that end, have merely demonstrated an intent to participate in such proceedings. Whether an employee has "participated" in a proceeding under part 708 shall be determined on a case-by-case basis, taking into consideration all of the facts and circumstances involved.

Comment was also received stating that the protection afforded employees who have "participated" in proceedings under part 708 should be extended to include employees who testify in court, or before Congress or other Federal agencies. As discussed above, the DOE is reluctant to offer protection to employees for disclosures made to parties other than DOE, members of Congress, or contractors. For reasons paralleling those discussed above, and with the exception of testimony before Congress, the DOE believes it inappropriate to expand the rule as suggested. Section 708.5(a) has been amended to extend the rule to cover employees who have participated in proceedings before Congress.

C. Implementation and Review

Comments were also received addressing the internal nature of the procedures set forth for the investigation, hearing, and review of complaints. It was suggested by commenters representing employees, as well as commenters representing contractors, that the Head of Field Element, the Secretary, and the DOE are not impartial parties with respect to contractor-employee matters. With respect to this issue, commenters have suggested that (1) DOE be removed from involvement with the administration and enforcement of the contractor employee protection rule and such responsibility be transferred to DOL; (2) an independent investigator be appointed and the Head of Field Element be removed from involvement; (3) administrative law judges be utilized in lieu of Hearing Officers; and (4) the final decision of the DOE be subject to judicial review.

1. DOE's Involvement

The DOE is intimately involved with and is ultimately responsible for operations at its facilities, and deems conditions that jeopardize health and safety, violate any laws, rules or regulations, or involve fraud, mismanagement, waste, or abuse to be directly counterproductive to such operations. The DOE, therefore, is highly interested in all matters pertaining to operations at its facilities, and believes that it is the appropriate agency to administer the Contractor Employee Protection Program set forth in this rule. The DOE does not agree that it lacks the impartiality necessary to assure that both the employee and the contractor are afforded a fair investigation and hearing.

Although DOL oversees the "whistleblower" protection program for

employees of licensees of NRC facilities, the relationship between the NRC and its licensees is far less direct than the relationship between DOE and its contractors. The NRC is merely a regulatory agency not responsible for the daily supervision of the operations of its licensees, and the work of licensees is not conducted at Federal facilities under contract with the Government. DOE contractors, on the other hand, are performing services for DOE, at DOE-owned or -leased facilities, and at DOE expense. Thus, DOE has a proprietary responsibility with respect to services performed by its contractors. It is reasonable, therefore, that the NRC should refer complaints of employment discrimination made by licensee employees to DOL, and that DOE should retain jurisdiction over such complaints when brought against a DOE contractor. Moreover, it is highly questionable whether DOE, in the absence of specific statutory authority, may legally transfer such responsibility to another Federal agency. For those cases where deemed appropriate, the rule allows the Secretary to request that other Federal agencies investigate the complaint and make the factual determinations upon which the Secretary's final decision will be based.

2. Involvement of the Head of Field Element

The DOE has adopted, in part, the suggestion that the Head of Field Element be removed from involvement in the processing of complaints under this rule. The final rule transfers the responsibilities previously delegated by the proposed rule to the Head of Field Element to the Director of a newly created Office of Contractor Employee Protection but preserves the Head of Field Element's involvement in attempts at informal settlement. This change removes decision making responsibilities from the Head of Field Element and delegates them to a DOE Headquarters office responsible directly to the Secretary or designee. DOE believes all parties will be better served by this amendment by removing any real or perceived conflict of interest existing under the proposed rule. The newly created Office of Contractor Employee Protection will also be responsible for assigning an investigator to review allegations of reprisal.

The DOE believes that the Head of Field Element can play an important role in the informal resolution of employee complaints of reprisal. DOE views precautions that ensure health and safety of employees and the public and that safeguard against mismanagement, waste or abuse, as well as compliance with applicable laws, rules, and regulations, to be the direct responsibility of line management. Consequently, DOE looks to the Head of Field Element to be accountable for acts of reprisal stemming from such matters and believes such person's direct involvement in the informal resolution of allegations of reprisal to be both necessary and appropriate.

3. Hearing Officer

Comment was received stating that Administrative Law Judges (ALJs) should be used in lieu of Hearing Officers. Although not required, the rule does not preclude the appointment of an ALJ or other Federal official to perform the duties of the Hearing Officer. As an administrative detail, the rule has been revised to allow utilization of Hearing Officers appointed by the Director of the DOE Office of Hearings and Appeals. The Office of Hearings and Appeals is a DOE Headquarters office with a staff of professional hearing officers experienced in the conduct of complex adjudicatory proceedings. For cases adjudicated before a Hearing Officer, the Hearing Officer will issue the initial agency decision.

4. Judicial Review

Comments were received stating that the provision of § 708.12(b) exempting final orders from judicial review under the Contract Disputes Act is improper and in violation of the Wunderlich Act. Disagreements regarding issues arising under a complaint and respecting whether discrimination in violation of § 708.5 has occurred, and decisions issued pursuant to this part, will not constitute disputes or claims arising under or relating to a contract and, therefore, will not give rise to a claim under the Contract Disputes Act. However, circumstances could arise whereby matters involving implementation of final decisions issued pursuant to the rule become involved in a claim under the Contract Disputes Act. For example, a contractor's disagreement, and refusal to comply, with a final decision under the rule, could result in a contracting officer's decision to disallow certain costs or terminate the contract for default. In such case, the contractor could file a claim under the disputes procedures of the contract respecting the decision to disallow or terminate. Section 708.12(b) has been amended to clarify this point.

Other comments objected to the lack of access to judicial review by claimants dissatisfied by the outcome of a proceeding under this part. Jurisdiction over such matters, however, cannot be established by a rulemaking.

D. Time Frames

Comments were received stating that the 30-day period provided in proposed § 708.6(c) (§ 708.6(d) of the final rule), within which a complaint must be filed, should be extended to 180 days because employees are often unaware of the remedies available to them and may not fully appreciate the ramifications of an employer's actions until several months have passed. The DOE has considered this comment, and agrees in part and disagrees in part. The proposed rule provided that the 30-day limitation period begins to run from the day the alleged discriminatory act occurred *"or was discovered"* (emphasis added). Thus, under some circumstances, the discovery of the negative impact of a personnel action not blatantly discriminatory, might reasonably not arise until several months (or more) subsequent to the action itself and could delay the running of the limitations period so that the limitations period could extend well beyond 180 days from the occurrence of the discriminatory act. Additionally, the limitations period is tolled for any period during which the employee is attempting resolution of his complaint through an internal company grievance procedure.

The date on which a discriminatory act occurred and the date on which it was discovered are factual issues to be determined on a case-by-case basis at the time a complaint is filed. The DOE believes that a 180-day limitations period running from the time an employee knew, or should have known, of the discriminatory act is excessive and would make the investigation of complaints more difficult as memories grow dimmer with the passage of time. Nevertheless, the DOE believes that a 30-day limitations period may in some circumstances be unduly short. In light of these considerations, proposed § 708.6(c) (§ 708.6(d) of the final rule) has been amended to require that complaints be filed within 60 days after the alleged discriminatory act occurs, or within 60 days after the employee knew, or reasonably should have known, that the alleged discriminatory act occurred, whichever is later.

E. Procedural Matters

1. Rules of Evidence

Comment was received stating that formal rules of evidence should be used, and suggesting that the modified Federal Rules of Evidence set forth at 29 CFR part 18 be followed. The DOE disagrees.

These proceedings are intended to be administrative in form and nature and are not intended to emulate formal trial proceedings. The DOE believes it would be unfair and overly burdensome to those not represented by counsel to require compliance with any formal rules of evidence, including the modified Federal Rules of Evidence. In the interest of achieving justice both expeditiously and without undue expense, the regulation states that formal rules of evidence shall not apply. It is intended, however, that formal rules of evidence be used as a guide, and language has been added to proposed § 708.9(d) (§ 708.9(c) of the final rule) to reflect this.

2. Post-Hearing Briefs

Comment was received stating that the rights of the parties to submit post-hearing briefs should not be subject to the discretion of the Hearing Officer. The DOE disagrees. The parties may submit written closing arguments for inclusion in the administrative record and all briefs or statements filed before or during the proceeding will be included in the record. The DOE believes that an expeditious resolution of a complaint benefits both the employee and the contractor. This can best be accomplished by allowing post-hearing briefs only when, in the discretion of the Hearing Officer, circumstances warrant the submission of additional material.

3. Burden of Proof

Comment was received suggesting that the complainant's burden of proof should be clarified. The DOE agrees and a new § 708.9(d) has been added to provide that the employee's burden is to demonstrate that the employee in fact did one of the acts described in § 708.5 (*i.e.*, disclosed information relating to a violation of law or regulation, evidencing a health or safety danger, or evidencing matters involving mismanagement, gross waste of funds, or abuse of authority; participated in a Congressional proceeding or a proceeding under this part; or refused to engage in an illegal or dangerous activity) and that such act was a contributing factor in a discriminatory act taken or intended to be taken against the employee. The burden then shifts to the contractor to demonstrate by clear and convincing evidence that the same personnel action would have been taken absent the employee's protected activity.

4. Security Measures

Comment was received suggesting that the rule be clarified to indicate that appropriate safeguards will be implemented to address circumstances involving Restricted Data or national security information. The DOE agrees and § 708.6(f) has been added for that purpose. Comment was also received criticizing the language of § 708.5(b) which limits protection of the rule to those disclosures that are not specifically prohibited by law or specifically required by Executive Order to be kept secret. In response to this comment, § 708.5(b) has been reworded to clarify that the rule is not intended to override provisions of any regulations pertaining to classified or sensitive information, and protections will not be available to persons who, in the course of making disclosures otherwise protected under the rule, make improper disclosures of Restricted Data, national security information, or any other classified or sensitive information protected by Executive Order, statute, or regulation.

F. Interaction With Other Systems of Dispute Resolution

Comments were received suggesting that the rule in effect would interpose the DOE in all contractor-employee disciplinary and performance based actions, and that the rule could be used by disgruntled employees as a shield against disciplinary action stemming from substandard performance. Comments were also received urging that the rule be made inapplicable to those contractors with internal company "whistleblower" protection programs in existence. In contrast, comments were received urging deletion of proposed § 708.6(b) (§ 708.6(c) of the final rule) which would require employees to certify that internal company grievance procedures have been exhausted, are ineffectual, or do not exist.

The DOE believes that contractors should have the managerial discretion to deal with employee disciplinary matters as they deem appropriate, and that contractors with effective employee protection programs should have the opportunity to address and resolve complaints of reprisal internally. The DOE recognizes, however, that in certain instances company procedures are not a substitute for Federal administrative procedures. Accordingly, the DOE believes that § 708.6(c) appropriately requires that internal company procedures be utilized when available, and that the rule as a whole does not excessively encroach upon the contractor's right to exercise managerial discretion. The DOE believes that the affirmation requirement of § 708.6(c) strikes a proper balance in protecting the rights of both the contractor and the employee. It ensures that contractors desiring to address such complaints internally can secure that opportunity by implementing appropriate internal procedures. At the same time, the rule protects the employee by allowing for an exception where pursuit of internal remedies would be futile or would expose the employee to additional employer reprisals. The affirmation requirement is intended to encourage employees and contractors to work together, when possible, to resolve their concerns. Further, although the complainant is required to include a statement respecting the employee's use of internal company procedures, as well as other specific information, the affirmation requirement should not be interpreted to require that the complaint itself be in any specific form. The language of § 708.6(c) has been amended for clarification.

Comment was received inquiring into the use of information gleaned through internal investigations or other proceedings by the contractor in its attempt to resolve the complaint internally. The DOE intends that investigations and other proceedings conducted pursuant to this part be *de novo*. However, any information collected or documents prepared by the contractor pursuant to internal resolution attempts shall be subject to the same inspection by the investigating officer as any other evidence probative of whether a violation of § 708.5 has occurred.

Additionally, some commenters inquired as to the interaction of the proposed rule with "whistleblower" programs implemented pursuant to State or other applicable law. It is not the DOE's intention that this rule should in any way limit an employee's right to pursue remedies available under State or other applicable law. However, it is also not the DOE's intention to give employees a forum in which to relitigate complaints that have been resolved after investigation and a full evidentiary hearing. Therefore, a new § 708.6(a) has been added to require that in those circumstances when redress is available under State or other applicable law, the employee must make an exclusive election of remedies. If an employee files a complaint pursuant to State or other applicable law before or concurrently with the filing of a complaint with DOE, the DOE shall not accept jurisdiction over the complaint. If, subsequent to the filing of a complaint with DOE, an employee, pursuant to State or other applicable law, files a complaint with respect to the same subject matter, the limitations

period for the filing of a complaint as set forth in § 708.6(d) will be suspended and the complaint pursuant to this part shall be immediately dismissed. If, however, an employee elects to pursue a remedy available under State or other applicable law, and it is later determined that the State or other tribunal has no jurisdiction, the employee may reinstitute or initially file a timely complaint with DOE. The pursuit of a remedy under a negotiated collective bargaining statement will not be considered the pursuit of a remedy under State or other applicable law and will not foreclose the employee's right to file a complaint under this part. Proposed § 709.6(a)–(d) has been modified accordingly and redesignated § 708.6(b)–(e).

G. Remedies

Comments were received addressing the remedies available to an employee under the proposed rule. It was suggested that, in addition to the remedies listed, the rule should allow a transfer preference, an option to retire for employees meeting certain age requirements, and interim relief (such as temporary reinstatement) pending final resolution of the complaint. For those cases in which discrimination against an employee in reprisal for a protected disclosure is found to have occurred, the rule aims to make the employee whole by restoring such employee to the position in which he or she would otherwise have been, absent the act(s) of reprisal, in a manner similar to other "whistleblower" protection rules. It is not the intention of the DOE to make available to the employee options which would not otherwise have been available to that employee. The DOE believes that to require certain employees be granted the option of early retirement would be an overly intrusive interference in management prerogatives. On the other hand, the DOE believes that there are circumstances for which a transfer preference or the granting of interim relief may be reasonable and appropriate, and § 708.10(c)(3) has been added and § 708.11(c) has been amended to allow for the inclusion of these remedies.

Comment was also received questioning whether the DOE would require the contractor to take action against employees found to have been involved in the discriminatory action. As stated above, the purpose of this rule is to restore employees subject to acts of reprisal to the position in which they would otherwise have been absent such discriminatory action. The DOE believes that it is within the contractor's managerial responsibility and discretion to address disciplinary matters associated with employees found to have participated in discriminatory conduct.

H. Allowability of Costs

Comment was received suggesting that the rule address whether, and to what extent, the costs of relief awarded a complainant, including attorney and expert-witness fees, as well as the contractor's costs of defending against a complaint, should be allowable costs under a Management and Operating contract. The DOE disagrees. Allowability of costs incurred as a result of this part is a procurement issue and will be determined in accordance with the Federal Acquisition Regulations, the DOE's Acquisition Regulation (DEAR), and contract provisions. Certain issues relating to allowability of costs were the subject of a Final Rule amending the DEAR, published in the Federal Register on June 19, 1991 (56 FR 28099), and amended on August 12, 1991 (56 FR 38174) and on August 26, 1991 (56 FR 41962). That rule could affect the reimbursability of costs incurred by contractors in complying with this part.

I. Frivolous Complaints

Comment was received criticizing the provisions of proposed § 708.8 which allow the Head of Field Element and the DOE to decline to accept complaints for processing under this rule. The DOE believes that, if early in the administrative process complaints are determined to be frivolous or without merit, they should be dismissed. To require full implementation of all protections and proceedings provided by the rule when a case is clearly frivolous would be an unwarranted waste of taxpayer money. However, the DOE has amended the rule to remove the authority of the Head of Field Element to dismiss a complaint. Thus, if the Head of Field Element, based on his review of the complaint, believes that a complaint should be summarily dismissed under any of the criteria set forth in § 708.8, he must forward the complaint to the Director who will make that determination. This amendment has been adopted in order to promote administrative efficiency and fairness. On the other hand, because the DOE also believes that an employee who has filed a complaint should be given the benefit of any doubt as to the validity of the matters alleged therein, and that a complaint should not be dismissed as frivolous unless it is blatantly so on its face, all orders declining to process or dismissing complaints are subject to review by the Secretary. Proposed § 708.8(b)–(e) has been redesignated § 708.8(c)–(f). Proposed § 708.8(b) (§ 708.8(c) of the final rule) has also been amended to clarify that the complainant may file a written request for review by the Secretary or designee of the Director's decision to dismiss a complaint.

Comment was also received advocating the imposition of penalties or sanctions for submission of malicious or false complaints. The DOE believes that exposing the employee to potential penalties and sanctions would operate to discourage employees from coming forward with information pertaining to unsafe, unlawful, fraudulent, or wasteful practices, without fear of retribution. Consequently, the DOE finds the imposition of administrative penalties to be contrary to the purpose of the Contractor Employee Protection Program. This rule does not, however, affect the applicability of criminal penalties under 18 U.S.C. 1001 and 1621 for knowingly and willfully making false, fictitious or fraudulent statements or representations.

J. Other Comments

1. Duplication of Existing Procedures

Comment was received stating that the rule duplicates existing DOE procedures. The DOE disagrees. Although the DOE Inspector General has authority to investigate allegations of waste, fraud, and abuse, that oversight authority is not a substitute for a program designed to protect employees who conscientiously bring such matters to the DOE's attention.

2. Mandatory Training Sessions

Comment was received stating that contractors covered by the rule should be required to conduct training sessions to familiarize employees with the Contractor Employee Protection Program. The DOE disagrees. Although the DOE encourages such training, the DOE believes that this is a matter appropriately left to managerial discretion. The rule requires that information pertaining to this program be visibly posted in conspicuous places, and the DOE believes that this strikes a balance between the need to communicate information regarding this program to employees and the contractor's right to manage its business.

3. Applicability to Owners, Officers, and Employees of the Contractor

Comment was received inquiring whether the rule applied to a contractor as a business entity, or to the owners, officers or employees of a contractor.

The final rule defines "contractor" as "a seller of goods or services who is a party to a procurement contract * * *." Since the contractor is typically the business entity itself, whether it be a corporation, partnership, or other form of business, which is "party to a procurement contract," the DOE intends by this definition that the rule will be applicable to the business entity, and that it will be the business entity that is a party to any proceedings under the rule.

4. Definition of "Discrimination"

Comment was received stating that the rule should be modified to contain a more precise definition of the term "discrimination." The DOE disagrees. In defining the term "discrimination," the DOE relied upon other employee protection regulations and statutes and listed those types of adverse personnel actions commonly encountered. As the definition indicates by the phrase "or other similar negative actions taken," the adverse actions listed is not intended to be an exclusive listing.

IV. Provisions of the Final Rule

The DOE is adopting the provisions set forth in the Notice of Proposed Rulemaking with the changes noted above. In addition, the following amendments have been made:

1. Section 708.2 has been amended to reflect that the rule is applicable as of its effective date to complaints of reprisal filed after that date which stem from disclosures, participations, or refusals involving health and safety matters, provided the underlying procurement contract described in § 708.4 contains a clause requiring compliance with all applicable safety and health regulations and requirements of DOE (48 CFR 970.5204–2). For all other complaints, the rule is applicable to acts of reprisal occurring after the effective date if the underlying procurement contract described in § 708.4 contains a clause requiring compliance with this part. The DOE intends to amend the Department of Energy Acquisition Regulation to require that all DOE contracts and subcontracts contain a provision requiring compliance with this part.

Section 708.2 has also been amended to clarify that the rule does not cover complaints of reprisal stemming from, or relating to, other types of discriminat on by contractors such as discrimination on the basis of race, color, religion, sex, age, national origin, or such other similar basis.

2. Definitions have been revised or added to § 708.4 for "contractor," "Director," "day," "employee," "Head of Field Element," "party," and "work performed on-site."

3. Section 708.6(c) has been changed to clarify the fact that a complaint need not be in any specific form as long as it sets forth the specific information required.

4. Section 708.8 (a) and (b) has been amended to require that upon the Director's decision to refuse or dismiss a complaint, written notification to the Secretary must occur within 15 days of the Director's receipt of the file and a copy of the notice must be provided to the complainant. Section 708.8(a) of the final rule also contains language, previously found in § 708.7(c), requiring the Director, rather than the Head of Field Element, to notify parties of their right to an investigation and a hearing with respect to complaints which have not been dismissed or settled. Proposed § 708.8(b) (§ 708.8(c) of the final rule) has been amended to allow for automatic reinstatement of a complaint if there is a determination that the matter cannot be resolved under State or other applicable law due to a lack of jurisdiction.

5. Proposed § 708.8(c) (§ 708.8(d) of the final rule) has been amended to clarify that the authority granted the investigator to review documents and places, question persons, and require the production of other evidence, is for the specific purpose of determining whether a violation of § 708.5 has occurred.

6. Proposed § 708.9(b) has been redesignated § 708.10(a), and has been amended to require the Director to issue the initial agency decision in cases where no hearing is requested. The content of the initial agency decision is also specified.

7. Section 708.9(i) has been amended to allow the Hearing Officer to make adverse findings upon the failure of a party to attend a hearing or to comply with a lawful order of the Hearing Officer.

8. Section 708.9(j) has been amended to clarify that a Hearing Officer's order to dismiss a claim, defense, or party may be appealed to the Director for reconsideration.

9. Proposed § 708.10(a) and (b) has been redesignated § 708.10(b) and (c).

10. For purposes of clarification, the phrase "DOE-owned or -leased facilities" has been substituted for the phrase "DOE-owned or -controlled facilities," and the phrase "Head of Field Element" has been substituted for the term "Manager."

V. Procedural Requirements

A. Executive Order 12291

Under Executive Order 12291, agencies are required to determine whether regulations are "major" as defined in the Order and therefore subject to the requirement of a Regulatory Impact Analysis. DOE has reviewed this rule and has determined that it is not a major rule for the following reasons: This rule will not have an annual effect of $100 million or more on the economy; will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. DOE submitted this notice to the Office of Management and Budget (OMB) for review. OMB has concluded its review.

B. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, DOE finds that sections 603 and 604 of the said Act do not apply to this rule because, if promulgated, the rule will affect only DOE contractors and subcontractors performing on-site at Government-owned or -leased facilities, and will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

There is no impact on the human environment under this proposed rule. It is an employee-relations mechanism and deals only with administrative procedures regarding reprisal protection for employees of DOE contractors and subcontractors. Accordingly, DOE has determined that this is not a major Federal action with significant impact upon the quality of the human environment and, therefore, preparation of an environmental assessment or an environmental impact statement is not required.

D. Paperwork Reduction Act

Any paperwork burden imposed by the proposed regulation will be minor and will be within the authority granted by OMB Control Number 1910–0600.

E. Federalism

The principal impact of this regulation will be on government contractors and their employees. The regulation is unlikely to have a substantial direct

effect on the States, the relationship between the States and the Federal government, or the distribution of power and responsibilities among various levels of government. No Federalism assessment under E.O. 12612 is required.

List of Subjects in 10 CFR Part 708

Energy, Government contracts; Health and Safety; Reprisal; Waste, Fraud, and Mismanagement; Whistleblower.

Issued in Washington, DC, on February 25, 1992.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

For the reasons cited above, part 708 is added to chapter III of title 10 of the Code of Federal Regulations as set forth below:

PART 708—DOE CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Subpart A—General Provisions

Sec.

Subpart B—Procedures

Authority: 42 U.S.C. 2201(b), 2201(c), 2201(i), and 2201(p); 42 U.S.C. 5814 and 5815; 42 U.S.C. 7251, 7254 7255, and 7256.

Subpart A—General Provisions

§ 708.1 Purpose.

This part establishes procedures for timely and effective processing of complaints by employees of contractors performing work at sites owned or leased by the Department of Energy (DOE), concerning alleged discriminatory actions taken by their employers in retaliation for the disclosure of information relative to health and safety, mismanagement, and other matters as provided in § 708.5(a), for the participation in proceedings before Congress or pursuant to this part, or for the refusal to engage in illegal or dangerous activities.

§ 708.2 Scope.

(a) This part is applicable to complaints of reprisal filed after the effective date of this part that stem from disclosures, participations, or refusals involving health and safety matters, if the underlying procurement contract described in § 708.4 contains a clause requiring compliance with all applicable safety and health regulations and requirements of DOE (48 CFR 970.5204–2). For all other complaints, this part is applicable to acts of reprisal occurring after the effective date of this part if the underlying procurement contract described in § 708.4 contains a clause requiring compliance with this part.

(b) This part is applicable to employees (defined in § 708.4) of contractors (defined in § 708.4) performing work on-site at DOE-owned or -leased facilities, unless the procedures contained in 29 CFR part 24, "Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes," are applicable. The procedures of this part 708 do not apply to contractor employees at government-owned, government-operated facilities, or to complaints of reprisal stemming from, or relating to, discrimination by contractors on a basis such as race, color, religion, sex, age, national origin, or other similar basis not specifically discussed herein. The protections afforded by this part are not applicable to any employee who, acting without direction from his or her employer, deliberately causes, or knowingly participates in the commission of, any misconduct set forth in § 708.5 that is the subject of the disclosure.

(c) For complaints not covered by § 708.5(a), the Director, at his discretion and for good cause shown, may accept a complaint for processing under this part. However, in no event will coverage under the rule be extended to employees of contractors over whom DOE does not exercise enforcement authority with respect to the requirements of this part. A determination by the Director not to accept a complaint pursuant to this subsection may be appealed to the Secretary of designee.

§ 708.3 Policy.

It is the policy of DOE that employees of contractors at DOE facilities should be able to provide information to DOE, to Congress, or to their contractors concerning violations of law, danger to health and safety, or matters involving mismanagement, gross waste of funds, or abuse of authority, to participate in proceedings conducted before Congress or pursuant to this part, and to refuse to engage in illegal or dangerous activities without fear of employer reprisal. Contractor employees who believe they have been subject to such reprisal may submit their complaints to DOE for review and appropriate administrative remedy as provided in §§ 708.6 through 708.11 of this part.

§ 708.4 Definitions.

For purposes of this part—

Contractor means a seller of goods or services who is a party to a procurement contract as follows:

(1) A Management and Operating Contract;

(2) Other types of procurement contracts; but this part shall apply to such contracts only with respect to work performed on-site at a DOE-owned or -leased facility; or

(3) Subcontracts under paragraphs (1) or (2) of this definition; but this part shall apply to such subcontracts only with respect to work performed on-site at a DOE-owned or -leased facility.

Day or *days* mean(s) calendar day(s).

Director means, unless otherwise indicated, the Director, Office of Contractor for Employee Protection.

Discrimination or *discriminatory acts* mean(s) discharge, demotion, reduction in pay, coercion, restraint, threats, intimidation, or other similar negative action taken against a contractor employee by a contractor, as a result of the employee's disclosure of information, participation in proceedings, or refusal to engage in illegal or dangerous activities, as set forth in § 708.5(a) of this part.

Employee or *employees* mean(s) any person(s) employed by a contractor, and any person(s) previously employed by a contractor if such prior employee's complaint alleges that employment was terminated in violation of § 708.5. The determination of whether a person has standing as an employee shall be made without regard to the on- or off-site locale of the person's work performance.

Field organization means a DOE field-based office that is responsible for the management, coordination, and administration of operations under its purview.

Head of Field Element means an individual who is the manager or head of a DOE operations office, other field office, or field organization.

Hearing Officer means an individual appointed by the Director, Office of Hearings and Appeals, pursuant to § 708.9.

Management and Operating Contract means an agreement under which DOE contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -leased research, development, special production, or testing establishment

wholly or principally devoted to one or more of the programs of DOE.

Official of DOE means any officer or employee of DOE whose duties include program management or the investigation or enforcement of any law, rule, or regulation relating to Government contractors or the subject matter of a contract.

Party or *parties* mean(s) any employee, contractor, or other party named in a proceeding under this part.

Work performed on-site means work performed within the boundaries of a DOE-owned or -leased facility. However, work will not be considered to be performed "on-site" when pursuant to the contract it is the only work performed within the boundaries of a DOE-owned or -leased facility, and it is ancillary to the primary purpose of the contract (*e.g.*, on-site delivery of goods produced off-site).

Subpart B—Procedures

§ 708.5 Prohibition against reprisals.

(a) A DOE contractor covered by this part may not discharge or in any manner demote, reduce in pay, coerce, restrain, threaten, intimidate, or otherwise discriminate against any employee because the employee (or any person acting pursuant to a request of the employee) has—

(1) Disclosed to an official of DOE, to a member of Congress, or to the contractor (including any higher tier contractor), information that the employee in good faith believes evidences—

(i) A violation of any law, rule, or regulation;

(ii) A substantial and specific danger to employees or public health or safety; or

(iii) Fraud, mismanagement, gross waste of funds, or abuse of authority;

(2) Participated in a Congressional proceeding or in a proceeding conducted pursuant to this part; or

(3) Refused to participate in an activity, policy, or practice when—

(i) Such participation—

(A) Constitutes a violation of a Federal health or safety law; or

(B) Causes the employee to have a reasonable apprehension of serious injury to the employee, other employees, or the public due to such participation, and the activity, policy, or practice causing the employee's apprehension of such injury—

(*1*) Is of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude there is a *bona fide* danger of an accident, injury, or serious impairment of health or safety resulting from participation in the activity, policy, or practice; and

(*2*) The employee is not required to participate in such dangerous activity, policy, or practice because of the nature of his or her employment responsibilities;

(ii) The employee, before refusing to participate in an activity, policy, or practice has sought from the contractor and has been unable to obtain a correction of the violation or dangerous activity, policy, or practice; and

(iii) The employee, within 30 days following such refusal, discloses to an official of DOE, a member of Congress, or the contractor, information regarding the violation or dangerous activity, policy, or practice, and explaining why he has refused to participate in the activity.

(b) An employee disclosure, participation, or refusal described in § 708.5(a) (1), (2), or (3) shall be subject to this part only if it relates to activities alleged to have occurred under work performed by the contractor for DOE. This part is not intended to override any other provision or requirement of any regulation pertaining to Restricted Data, national security information, or any other classified or sensitive information, and the protections of this part shall not apply to any person who, in the course of making a disclosure described in § 708.5(a) (1) or (3), or in the course of participating in a proceeding described in § 708.5(a)(2), improperly discloses Restricted Data, national security information, or any other classified or sensitive information in violation of any Executive Order, statute, or regulation.

§ 708.6 Filing a complaint.

(a) An employee who believes that he or she has been discriminated against in violation of this part, and who has not, with respect to the same facts, pursued a remedy available under State or other applicable law, may file a complaint with DOE through the Head of Field Element at the field organization. For purposes of this part, a complaint shall be deemed to have been pursued under State or other applicable law if the employee has, pursuant to proceedings established or mandated by State or other applicable law, at any time prior to, or concurrently with, the filing of a complaint with DOE, or at any time during the processing of a complaint filed with DOE, filed or submitted any complaint, action, grievance, or other pleading with respect to that same matter. The pursuit of a remedy under a negotiated collective bargaining agreement will be considered the pursuit of a remedy through internal company grievance procedures and not the pursuit of a remedy under State or other applicable law. The limitations period specified in § 708.6(d) shall be suspended upon the filing of a complaint pursuant to State or other applicable law, and the mere filing of a complaint pursuant to State or other applicable law shall not bar the employee from re-instituting or filing a complaint with DOE if the matter cannot be resolved under State or other applicable law due to a lack of jurisdiction.

(b) The Head of Field Element may designate an individual to serve as point of contact for processing the complaint and for undertaking the responsibilities under § 708.7.

(c) A complaint filed under paragraph (a) of this section need not be in any specific form provided it is signed by the complainant and contains the following: A statement setting forth specifically the nature of the alleged discriminatory act, and the disclosure, participation or refusal giving rise to such act; a statement that the complainant has not, as described in paragraph (a) of this section, pursued a remedy available under State or other applicable law; and an affirmation that all facts contained in the complaint are true and correct to the best of the complainant's knowledge and belief. Additionally, the complaint must contain a statement affirming that:

(1) All attempts at resolution through an internal company grievance procedure have been exhausted;

(2) The company grievance procedure is ineffectual or exposes the complainant to employer reprisals; or

(3) The company has no such procedure.

The complaint must state the factual basis for such affirmation; and, if applicable, the date on which internal company grievance procedures were terminated and the reasons for termination.

(d) A complaint filed pursuant to paragraph (a) of this section must be filed within 60 days after the alleged discriminatory act occurred or within 60 days after the complainant knew, or reasonably should have known, of the alleged discriminatory act, whichever is later. In cases where the employee has attempted resolution through internal company grievance procedures as set forth in paragraph (c) of this section, the 60-day period for filing a complaint shall be tolled during such resolution period and shall not again begin to run until the day following termination of such dispute-resolution efforts.

(e) Within 15 days of receipt of a complaint filed pursuant to paragraph (a) of this section, the Head of Field Element or designee shall notify:

(1) The contractor, person, or persons named in the complaint, and

(2) The Director, of the filing of the complaint.

A copy of the complaint shall be forwarded to the Director.

(f) Any person or party responsible for the conduct of any investigation or proceeding pursuant to this part shall ensure that appropriate safeguards are implemented to accommodate circumstances involving Restricted Data, national security information, or any other classified or sensitive information protected by Executive Order, statute, or regulation.

§ 708.7 Attempt at informal resolution.

(a) The Head of Field Element or designee shall have 30 days from the date of receipt of a complaint in which to attempt an informal resolution of the complaint, prior to the initiation of a formal investigation. To this end, the Head of Field Element or designee may attempt to resolve the complaint through consultation and negotiation with the parties involved. If the Head of Field Element or designee has cause to believe the complaint might not meet the requirements of this part, within 5 days from the date of receipt of the complaint, the Head of Field Element or designee shall forward the complaint to the Director, without comment and without notice to any party, for a determination of whether attempts at informal resolution should be continued or the complaint should be dismissed summarily under any of the criteria set forth in § 708.8. If the Director determines to dismiss the complaint summarily, the complaint shall be dismissed and the parties notified pursuant to the procedures set forth in § 708.8. If the Director determines not to dismiss the complaint summarily, he shall, within 15 days from the date he received it, so advise the Head of Field Element or designee and return the complaint to the Head of Field Element or designee, who shall thereupon have 30 days to attempt informal resolution of the complaint.

(b) If informal resolution is reached, the Head of Field Element or designee shall enter into a settlement agreement which terminates the complaint. The terms of such agreement shall be reduced to writing and made part of the complaint file, with a copy provided to all parties. Any such agreement shall be binding on the parties.

(c) If informal resolution cannot be reached, the Head of Field Element or designee shall immediately notify the Director and provide the file to the Director with a brief summary of the attempts at resolution.

§ 708.8 Acceptance of complaint and investigation.

(a) Unless the Director determines that:

(1) The complaint has been settled under § 708.7,

(2) The complaint is untimely,

(3) The complaint or disclosure is frivolous or on its face without merit,

(4) The complainant has pursued a remedy available under State or other applicable law, or

(5) The complaint, for other good cause shown, should not be processed under this part, the Director, within 5 days of receipt of the file from the Head of Field Element or designee, shall notify the parties in writing that an investigation will be conducted under § 708.8 and of their right to a subsequent hearing under § 708.9.

Within 15 days of receipt of the file from the Head of Field Element or designee, the Director shall appoint an investigator and order an investigation of the complaint. If the Director declines to process a complaint for investigation, the Director shall notify the Secretary or designee within 15 days of receipt of the file from the Head of Field Element or designee. The notification shall be in writing and shall set forth the specific reasons for such refusal. A copy of such notice shall be sent to the Head of Field Element and shall be delivered by certified mail to the complainant and the contractor.

(b) If based upon information acquired during investigation of a complaint, the Director determines the existence of grounds for dismissal of the complaint, as set forth in § 708.8(a), the Director, within 15 days of receipt of the file from the investigator, shall dismiss the complaint and notify the Secretary or designee. The notification shall be in writing and shall set forth the specific reasons for such dismissal. A copy of such notice shall be sent to the Head of Field Element, and shall be delivered by certified mail to the complainant and the contractor.

(c) If the Director dismisses a complaint pursuant to paragraph (a) or (b) of this section, the administrative process is terminated unless within 5 calendar days of receipt of the notice required under paragraph (a) or (b) of this section, the complainant files a written request with the Director for review by the Secretary or designee. Copies of any request for review shall be served by the complainant on all parties by certified mail, and the Director shall promptly send a copy to the Secretary. If the Secretary or designee determines that the complaint should be considered further, the Secretary or designee shall order the Director to reinstate the complaint and resume the administrative process. If, pursuant to either paragraph (a) or (b) of this section, a complaint has been dismissed because the complainant has pursued a remedy available under State or other applicable law, the complaint, upon written request by the complainant, will be subject to automatic reinstatement if the matter cannot be resolved under State or other applicable law due to a lack of jurisdiction.

(d) In conducting an investigation under this part, the investigator, for the purpose of determining whether a violation of § 708.5 has occurred, may enter and inspect places and records (and make copies thereof), may question persons alleged to have been involved in discriminatory acts and other employees of the charged contractor, and may require the production of any documentary or other evidence deemed necessary. The contractor shall cooperate fully with the investigator in making available employees and all pertinent evidence, including records.

(e) To the extent practicable, investigations under this part shall be conducted in a manner that protects the confidentiality of any person (other than the complainant) who requests leave to provide information on a confidential basis. Confidentiality shall not be extended to any persons who in the course of their employment, or due to the nature of their position, are required to provide such information, and all grants of confidentiality shall be subject to waiver by the Hearing Officer if the Hearing Officer determines that waiver is necessary to achieve a fair adjudication of the case. The investigator shall advise all persons to whom confidentiality is granted that such grant of confidentiality is conditional, not absolute.

(f) The investigator, within 60 days of appointment, shall submit a Report of Investigation to the Director. The Report of Investigation shall become a part of the record and shall state specifically a finding, and the factual basis for such finding, with respect to each alleged discriminatory act. Within 10 days of receipt of the Report of Investigation, the Director shall serve it on the parties involved by certified mail.

§ 708.9 Hearing.

(a) Unless a complaint has been dismissed pursuant to § 708.8, within 15 days of receipt of the Report of Investigation, a party may, in writing, request a hearing on the complaint. Upon the request of one of the parties

for a hearing, the Director shall transmit the complaint file to the Office of Hearings and Appeals.

(b) Upon receipt of the complaint file from the Director, the Director, Office of Hearings and Appeals shall appoint, as soon as practicable, a Hearing Officer to conduct a hearing and shall transmit to the Hearing Officer a copy of the file, including the Report of Investigation. The Hearing Office shall, within seven days following receipt of the complaint file, notify the parties of a day, time, and place for the hearing. Hearings will normally be held at or near the appropriate DOE field organization, within 60 days from the date the complaint file is received by the Hearing Officer unless the Hearing Officer determines that another location would be more appropriate, or unless the complaint is earlier settled by the parties.

(c) In all proceedings under this part, the parties shall have the right to be represented by a person of their own choosing. Formal rules of evidence shall not apply, but shall be used as a guide for application of procedures and principles designed to assure production of the most probative evidence available. The Hearing Officer may exclude evidence which is immaterial, irrelevant, or unduly repetitious. The Hearing Officer is specifically prohibited from initiating or otherwise engaging in *ex parte* discussions on a complaint matter at any time during the pendency of the complaint proceeding under this part.

(d) The complainant shall have the burden of establishing by a preponderance of the evidence that there was a disclosure, participation, or refusal described under § 708.5, and that such act was a contributing factor in a personnel action taken or intended to be taken against the complainant. Once the complainant has met this burden, the burden shall shift to the contractor to prove by clear and convincing evidence that it would have taken the same personnel action absent the complainant's disclosure, participation, or refusal.

(e) Testimony of witnesses shall be given under oath or affirmation, and the witnesses shall be subject to cross-examination. Witnesses shall be advised of the applicability of 18 U.S.C. 1001 and 1621, dealing with the criminal penalties associated with false statements and perjury.

(f) At his or her discretion, the Hearing Officer may arrange for the issuance of subpoenas for witnesses to attend the Hearing on behalf of either party, or for the production of specific documents or other physical evidence, provided a showing of the necessity for such witness or evidence has been made to the satisfaction of the Hearing Officer.

(g) All hearings shall be mechanically or stenographically reported. All evidence upon which the Hearing Officer relies for the recommended decision under § 708.10(b) shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits and other pertinent documents or records, either in whole or in material part, introduced as evidence, shall be marked for identification and incorporated into the record.

(h) Any party, upon request, may be allowed a reasonable time to file with the Hearing Officer a brief or statement of fact or law. A copy of any such brief or statement shall be filed with the Hearing Officer before or during the proceeding and shall be served by the submitting party upon each other party by certified mail. The parties may make oral closing arguments, but post-hearing briefs will only be permitted at the direction of the Hearing Officer. When permitted, any such brief shall be limited to the issue or issues specified by the Hearing Officer and shall be due within the time prescribed by the Hearing Officer.

(i) At the request of any party, the Hearing Officer may, at his or her discretion, extend the time for any hearing held pursuant to this § 708.9. Additionally, the Hearing Officer may, at the request of any party, or on his or her own motion, dismiss a claim, defense, or party and make adverse findings—

(1) Upon the failure without good cause of any party or his or her representative to attend a hearing; or

(2) Upon the failure of any party to comply with a lawful order of the Hearing Officer.

(j) In any case where a dismissal of a claim, defense, or party is sought, the Hearing Officer shall issue an order to show cause why the dismissal should not be granted and afford all parties a reasonable time to respond to such order. After the time for response has expired, the Hearing Officer shall take such action as is appropriate to rule on the dismissal, which may include an order dismissing the claim, defense, or party. An order dismissing a claim, defense, or party may be appealed to the Director for reconsideration.

§ 708.10 Initial agency decision.

(a) If a hearing is not requested, the Director, within 30 days of expiration of the time set forth in § 708.9(a) for request of a hearing, shall issue an initial agency decision based upon the record, which decision shall be served upon the parties by certified mail. The initial agency decision shall contain appropriate findings, conclusions, and an order, and shall set forth the factual basis for each and every finding with respect to each alleged discriminatory act. In making such findings, the Director may rely upon, but shall not be bound by, the findings contained in the Report of Investigation.

(b) If a hearing has been held, the Hearing Officer shall issue an initial agency decision within 30 days after the receipt of the transcript from the proceeding at which evidence was submitted or within 30 days after receipt of any post-hearing briefs permitted under § 708.9(h), whichever is later. The initial agency decision shall contain appropriate findings, conclusions, and an order, and shall set forth the factual basis for each and every finding with respect to each alleged discriminatory act. In making such findings, the Hearing Officer may rely upon, but shall not be bound by, the findings contained in the Report of Investigation. The Hearing Officer shall send the initial agency decision, together with the entire record, to the Director who shall promptly serve the initial agency decision upon all parties to the proceeding by certified mail.

(c) The initial agency decision may include an award of reinstatement, transfer preference, back pay, and reimbursement to the complainant up to the aggregate amount of all reasonable costs and expenses (including attorney and expert-witness fees) reasonably incurred by the complainant in bringing the complaint upon which the decision was issued.

(1) If the initial agency decision contains a determination that the complaint is without merit, it shall also include a notice stating that the decision shall become the final decision of DOE denying the complaint unless, within five calendar days of its receipt, a written request is filed with the Director for review by the Secretary or designee. Copies of any request for review shall be served by the requesting party upon all parties by certified mail.

(2) If the initial agency decision contains a determination that a violation of § 708.5 has occurred, it shall also include an appropriate order to the contractor to abate the violation and to provide the complainant with relief, as well as notice to the parties that the decision shall become the final decision of DOE unless, within five calendar days of its receipt, a written request is filed with the Director for review by the

Secretary or designee. Copies of any request for review shall be served by the requesting party upon all parties by certified mail.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, if the agency decision contains a determination that a violation of § 708.5 has occurred, it may contain an order requiring the contractor to provide the complainant with interim relief, including but not limited to reinstatement, pending the outcome of any request for review. This paragraph shall not be construed to require the payment of any award of back pay or attorney fees before the DOE decision is final.

§ 708.11 Final decision and order.

(a) Upon receipt of a request for review of an initial agency decision by the Secretary or designee, the Director shall forward the request, along with the entire record, to the Secretary or designee.

(b) Within 60 days after the Director receives a request for Secretarial review of an initial agency decision, the Secretary or designee shall either direct further processing of the complaint or pursuant to paragraph (c) or (d) of this section, issue a final decision, based on the record, including the Report of Investigation. The final decision shall be forwarded by the Secretary or designee to the Director who shall serve it upon all parties by certified mail.

(1) If the Secretary or designee determines that further processing of the complaint is necessary, the Secretary or designee will return the case to the Director, who will forward it with specific instructions to the Office of Hearings and Appeals and/or the investigator as appropriate.

(2) Except to the extent prohibited by law, regulation, or Executive Order, all parties will be provided copies of any information compiled as a result of actions taken under paragraph (b)(1) of this section.

(c) If the Secretary or designee determines that a violation of § 708.5 has occurred, the Secretary or designee shall issue a final decision and shall instruct the Director to take appropriate action to implement that decision. Relief ordered by the Secretary or designee may include reinstatement, transfer preference, back pay, and reimbursement to the complainant up to the aggregate amount of all reasonable costs and expenses (including attorney and expert-witness fees) reasonably incurred by the complainant in bringing the complaint upon which the decision was issued or such other relief as is necessary to abate the violation and provide the complainant with relief.

(d) If the Secretary or designee determines that the party charged has not committed a discriminatory act in violation of § 708.5, the Secretary or designee shall so notify the Director and issue a final decision dismissing the complaint. If the Secretary or designee determines that there has been no discrimination, the complainant shall not receive reimbursement for the costs and expenses provided in paragraph (c) of this section.

§ 708.12 Implementation of decision.

(a) Upon receipt of the final decision of the Secretary or designee under § 708.11, or if the initial agency decision becomes the final decision pursuant to § 708.10(c) (1) or (2), the Director shall serve the final decision upon all parties by certified mail, and upon the Head of Field Element at the affected DOE field organization. The Head of Field Element shall take all necessary steps to implement the final decision.

(b) For purposes of sections 6 and 7 of the Contract Disputes Act (41 U.S.C. 605 and 606), a decision implemented by the Head of Field Element pursuant to this part shall not be considered a "claim by the government against a contractor" or "a decision by the contracting officer." However, a contractor's disagreement, and refusal to comply, with a final decision under this part could result in the contracting officer's decision to disallow certain costs or terminate the contract for default. In such case, the contractor could file a claim under the disputes procedures of the contract.

§ 708.13 Communication of program to contractor employees.

(a) All contractors covered by this part shall inform their employees of the applicability of the DOE Contractor Employee Protection Program, including identification of the DOE offices to which a protected disclosure can be made and identification of appropriate points of contact for initiating employment-reprisal complaints.

(b) The information required in paragraph (a) of this section shall be prominently posted in conspicuous places at the contractor worksite, in all places where notices are customarily posted. Such notices shall not be altered, defaced, or covered by other material.

§ 708.14 Alternative means of resolution.

Notwithstanding the provisions of this part, the Secretary retains the right to request that complaints filed pursuant to this part be accepted by other Federal agencies for investigation and factual determinations, when the Secretary deems such referral to be in the public interest.

§ 708.15 Time frames.

The time frames set forth in this part may be extended with the approval of the Secretary or designee.

[FR Doc. 92-4653 Filed 2-28-92; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8398]

RIN 1545-AN47

Sale of Seized Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations that provide guidance relating to requests for the sale of seized property under section 6335(f) of the Internal Revenue Code (the "Code"). Section 6236(g) of the Technical and Miscellaneous Revenue Act of 1988 amended section 6335 of the Code by inserting subsection (f), which allows the owner of any property seized by levy to request that the Service sell the property within 60 days, or within any longer period specified by the owner. The regulations set forth the person to whom a request for sale of property should be addressed and what information should be included in a request.

DATES: These regulations are effective April 2, 1992 and apply to requests made on or after April 2, 1992. However, any reasonable request for the sale of seized property made on or after January 1, 1989, and before the effective date of these regulations will be honored by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Kevin B. Connelly, (202) 535-9682 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) pursuant to section 6335 of the Code. The regulations reflect the amendment of section 6335 by section 6236(g) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100-647, 102 Stat. 3342).

Explanation of Provisions

The Internal Revenue Service published a notice of proposed rulemaking in the **Federal Register** on October 9, 1991 (56 FR 50831). Prior to publication of the notice, the Internal Revenue Service gave the Small Business Administration the opportunity to comment.

The Internal Revenue Service received public comments on the proposed regulation from just one party. The issues raised by that party were considered prior to the publication of the notice of proposed rulemaking and are noted below. No changes have been made to the final regulations.

Section 6236(g) of the Technical and Miscellaneous Revenue Act of 1988 amended section 6335 of the Internal Revenue Code by inserting new subsection (f), which allows the owner of any property seized by levy to request that the Service sell the property within 60 days, or within any longer period specified by the owner. The Secretary must comply with such a request unless a determination is made that compliance would not be in the best interests of the United States, and the owner of the property is notified within the 60-day period (or longer period, as specified by the owner) that such a determination has been made.

The regulations provide that a request for the sale of property must be made in writing to the group manager of the revenue officer whose signature is on Levy Form 668–B. Often, the taxpayer will know this information through prior communication with the Internal Revenue Service. If the owner does not know the group manager's name or address, the owner may send the request to the revenue officer, marked for the attention of his or her group manager. The request must include: (1) The name, current address, current home and work telephone numbers and any convenient times to be contacted, and the taxpayer identification number of the owner making the request; (2) a description of the seized property that is the subject of the request; (3) a copy of the notice of seizure, if available; (4) the period within which the owner is requesting that the property be sold; and (5) the signature of the owner or duly authorized representative.

The regulations also provide that the group manager shall respond in writing to a request for the sale of seized property as soon as practicable after receipt of such request and in any event within 60 days after receipt of the request or, if later, the date specified by the owner for the sale.

The party who submitted public comments has suggested that the period within which the Internal Revenue Service must respond to a request for sale of seized property should be shortened so that if the group manager determines that it would not be in the Internal Revenue Service's best interests to comply with the owner's request, the owner will have sufficient time to appeal the group manager's decision prior to the date by which the owner has requested the sale.

Section 6335 provides that if the Secretary determines that compliance with an owner's request for sale of seized property would not be in the best interests of the United States, the owner must be notified of such determination within the period within which the owner has requested sale, *i.e.*, 60 days or any longer period specified by the owner. The regulations simply implement the language of the statute with the added provision that the group manager should respond to the owner's request as soon as practicable after receipt of the request.

The commenter also has suggested that the regulation should provide formal appeal procedures for the owner in the event the group manager denies the owner's request. The group manager and the revenue officer are in the best position to determine whether complying with a taxpayer's request to sell seized property within 60 days or any longer period specified by the taxpayer would not be in the best interests of the taxpayer. Because of their general duties seizing and selling property as well as their involvement in specific cases, the group manager and the revenue officer are most familiar with the various factors, such as market conditions, that must be considered by the person responsible for determining whether compliance with a request to sell property is not in the Service's best interest. In essence, the determination of whether to comply with a taxpayer's request is just an extension of the group manager's and the revenue officer's current duties. An appeal of the group manager's decision to an independent office outside of the collection function, *e.g.*, the Office of Appeals, would give someone with one expertise in the area the job of second guessing the person with the most expertise in the area. In addition, a formal appeal to another function in Collection is unnecessary because a taxpayer always has the right to ask a revenue officer's or group manager's supervisor to review a decision. A formal appeal process would just prolong the final decision.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. It also has been determined that Section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Kevin B. Connelly, Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Adoption of Amendment to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority citation for part 301 continued to read in part:

Authority: Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 2. Section 301.6335–1 is amended by adding a new paragraph (d) to read as follows:

§ 301.6335–1 Sale of seized property.

* * * * *

(d) *Right to request the sale of seized property*—(1) *In general.* The owner of any property seized by levy may request that the district director sell such property within 60 days after such request, or within any longer period specified by the owner. The district director must comply with such a request unless the district director determines that compliance with the request is not in the best interests of the Internal Revenue Service and notifies the owner of such determination within the 60 day period, or any longer period specified by the owner.

(2) *Procedures to request the sale of seized property*—(i) *Manner.* A request for the sale of seized property shall be made in writing to the group manager of

the revenue officer whose signature is on Levy Form 668–B. If the owner does not know the group manager's name or address, the owner may send the request to the revenue officer, marked for the attention of his or her group manager.

(ii) *Form.* The request for sale of seized property within 60 days, or such longer period specified by the owner, shall include:

(A) The name, current address, current home and work telephone numbers and any convenient times to be contacted, and taxpayer identification number of the owner making the request;

(B) A description of the seized property that is the subject of the request;

(C) A copy of the notice of seizure, if available;

(D) The period within which the owner is requesting that the property be sold; and

(E) The signature of the owner or duly authorized representative. For purposes of these regulations, a duly authorized representative is any attorney, certified public accountant, enrolled actuary, or any other person permitted to represent the owner before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has written power of attorney executed by the owner.

(3) *Notification to owner.* The group manager shall respond in writing to a request for sale of seized property as soon as practicable after receipt of such request and in no event later than 60 days after receipt of the request, or, if later, the date specified by the owner for the sale.

Michael J. Murphy,

Acting, Commissioner of Internal Revenue.

Approved: January 17, 1992.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 92–4615 Filed 3–2–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

32 CFR Part 350

[DoD Directive 5137.1]

Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C31))

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR part 350 to update the responsibilities, functions, relationships and authorities of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C31)) and informs persons concerned.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Dale Clark, telephone (703) 695–4281.

SUPPLEMENTARY INFORMATION: Significant revisions include the following:

(a) Requires the ASD(C31) to report directly to the Secretary and Deputy Secretary of Defense.

(b) Assigns ASD(C31) responsibility for implementing the Defense information management program and the Defense corporate information management initiative throughout the Department of Defense.

(c) Assigns counterintelligence and security countermeasures functions to the ASD(C31).

(d) Places the following organizations under the direction, authority, and control of the ASD(C31): Defense Information Systems Agency, Defense Intelligence Agency, Defense Mapping Agency, Defense Investigative Service, Defense Support Project Office, Intelligence Program Support Group, Defense Polygraph Institute, DoD Security Institute, and Defense Personnel Security Research Center.

List of Subjects in 32 CFR Part 350

Organization and functions (Government agencies).

Accordingly, title 32 of the Code of Federal Regulations, chapter 1, subchapter R, part 350, is revised to read as follows:

PART 350—ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE (ASD(C31))

Sec.

Authority: 10 U.S.C. 136 and 44 U.S.C. 3506(c)(4), and E.O. 12356, 3 CFR, 1982 Comp., p. 166.

§ 350.1 Purpose.

Under the authority vested in the Secretary of Defense by title 10, United States Code, this part reissues DoD Directive 5137.1[1] to update the responsibilities, functions, relationships, and authorities of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C31)).

§ 350.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 350.3 Responsibilities.

The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall have as his principal duty the overall supervision of C31 affairs of the Department of Defense. The ASD(C31) is the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for C31, information management (IM), counter-intelligence (CI), and security countermeasures (SCM) matters, including warning, reconnaissance, and intelligence and intelligence-related activities conducted by the Department of Defense.

§ 350.4 Functions.

In the exercise of assigned responsibilities, the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall:

(a) Serve as principal staff assistant in carrying out the responsibilities of the Secretary of Defense as Executive Agent for the National Communications System.

(b) Serve as the Department's senior IM official pursuant to section 3506(b) of 44 U.S.C.; implement the Defense IM program, the Defense corporate IM initiative, and the principles of corporate IM throughout the Department of Defense; and ensure the proper integration of DoD computing, systems security, telecommunications, and IM activities.

(c) Conduct and account for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act (40 U.S.C. 759), in accordance with section 3506(c)(4) of 44 U.S.C.

(d) Serve as the Department's senior information security official pursuant to section 5.3(a) of E.O. 12356.

[1] Copies may be obtained, at cost, from the National Technical Information Service, US Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(e) Serve as the principal DoD official responsible for establishing software policy and practices, but shall not be responsible for computer resources, both hardware and software, that are:

(1) Physically part of, dedicated to, or essential in real time to the mission performance of weapon systems.

(2) Used for weapon system specialized training, simulation, diagnostic test and maintenance, or calibration.

(3) Used for research and development of weapon systems.

(f) Establish and implement IM policy, processes, programs, and standards to govern the development, acquisition, and operation of automated data processing (ADP) equipment by the Department of Defense, but shall not be responsible for ADP equipment that is an integral part of a weapon or weapon system, test support for a weapon or weapon system, or information technology basic research and development.

(g) Chair the Major Automated Information System Review Council (MAISRC). The ASD(C3I) shall operate the MAISRC in a manner consistent with the acquisition policies in DoD Directive 5000.1 [2] and, for automated information system programs below the Defense Acquisition Board thresholds, independently of the Defense Acquisition Board (DAB).

(h) Provide program management for the General Defense Intelligence Program, the Foreign Counterintelligence Program, and the Security and Investigative Activities Program.

(i) Serve as the principal DoD official responsible for preparing and defending the Department's C3I, CI, SCM, and IM programs before the Congress.

(j) Review and advise the Secretary of Defense on C3I, CI, SCM, and IM plans and programs; review and recommend requirements and priorities to ensure that DoD requirements are fully considered in the development of these plans and programs; monitor and evaluate the responsiveness of such programs to DoD requirements, particularly their readiness to support military operations.

(K) Provide guidance, and management and technical oversight for all C3I, CI, SCM, and IM projects, programs, and systems being acquired by, or for the use of, the Department of Defense and its Components.

(l) Oversee applicable training and career development programs to ensure that trained manpower is available to support DoD C3I, CI, SCM, and IM mission needs, including manpower requirements for projected systems.

(m) Recommend, advise, and provide assistance to other OSD staff elements on C3I, CI, SCM, and IM matters relevant to the execution of their assigned responsibilities, including the execution of DoD-wide programs to improve standards of performance, economy, and efficiency.

(n) Assess the responsiveness of intelligence products to DoD requirements.

(o) Promote coordination, cooperation, and cross-Service management of joint C3I, IM, CI, and SCM programs to ensure essential interoperability is achieved within the Department of Defense and between the Department of Defense and other Federal Agencies and the civilian community.

(p) Participate, as appropriate, in the DoD planning, programming, and budgeting system for C3I, IM, CI, and SCM activities by reviewing proposed DoD resource programs, formulating budget estimates, recommending resource allocations and priorities, and monitoring the implementation of approved programs.

(q) Establish policy and provide direction to the DoD Components on all matters concerning the assigned functional areas in paragraphs (q)(1) through (q)(26) of this section; serve as the primary focal point for staff coordination on these matters within the Department of Defense, with other Government Departments and Agencies, and with foreign governments and international organizations to which the United States is party; and provide DoD representation to foreign governments and intergovernmental and international organizations when dealing with these matters.

(1) Strategic, theater, and tactical nuclear and conventional command and control.

(2) Information networks.

(3) C3I-related space systems.

(4) Special technology and systems.

(5) Telecommunications.

(6) Identification, navigation, and position fixing systems.

(7) Strategic C3 countermeasures.

(8) Air traffic control and airspace management.

(9) Surveillance, warning, and reconnaissance architectures.

(10) North Atlantic Treaty Organization C3I architectures and systems.

(11) Information systems security.

(12) Intelligence programs, systems, and equipment.

(13) National Communications System activities.

(14) Radio frequency policy and management.

(15) Mapping, charting, and geodsey.

(16) Integration and/or interface of national and tactical C3I systems and programs.

(17) C3I, IM, CI, and SCM career development, including DoD foreign language training.

(18) Information management activities.

(19) Counter-narcotics C3I activities.

(20) C3I, IM, CI, and SCM technology programs and activities.

(21) Counterintelligence operations and investigations policy and programs.

(22) Defense investigative activities, to include personnel security investigations, unauthorized disclosures of classified information, and polygraph examinations.

(23) Security countermeasures activities, to include physical security, personnel security, industrial security, and security classification and safeguards policy and programs.

(24) Operations security and counterimagery security.

(25) Security-related research, including personnel security and polygraph activities.

(26) Data and information systems standardization programs, including DoD-wide data administration.

(r) Perform such other duties as the Secretary of Defense may assign.

§ 350.5 Relationships.

(a) In the performance of all assigned duties, the ASD(C3I) shall:

(1) Report directly to the Secretary and Deputy Secretary of Defense.

(2) Exercise direction, authority, and control over:

(i) Defense Information Systems Agency.
(ii) Defense Intelligence Agency.
(iii) Defense Mapping Agency.
(iv) Defense Investigative Service.
(v) Defense Support Project Office.
(vi) Intelligence Program Support Group.
(vii) Defense Polygraph Institute.
(viii) DoD Security Institute.
(ix) Defense Personnel Security Research Center.

(3) Exercise staff supervision over:

(i) National Security Agency/Central Security Service.
(ii) Air Force and Navy Special Intelligence Programs.
(iii) Electromagnetic Compatibility Analysis Center.
(iv) Defense Courier Service.

(4) Coordinate and exchange information with other OSD officials and heads of DoD Components exercising collateral or related functions.

[2] See footnote 1 to § 350.1.

(5) Use existing facilities and services of the Department of Defense and other Federal Agencies, when practicable, to avoid duplication and to achieve maximum readiness, sustainability, efficiency, and economy.

(6) Work closely with the Director of Central Intelligence to ensure effective complementarity and mutual support between DoD intelligence programs, including DoD programs in the National Foreign Intelligence Program, and non-DoD intelligence programs.

(b) ASD(C3I) acquisition-related activities shall be subject to review by the DAB in accordance with DoD Directive 5000.1 and DoD Directive 5000.49,[3] and shall be subject to the authority of the USD(A) delegated by the Secretary or Deputy Secretary of Defense.

(c) Other OSD officials and heads of the DoD Components shall coordinate with the ASD (C3I) on all matters related to the functions cited in this section.

§350.6 authorities.

(a) The ASD(C3I) is hereby delegated authority to:

(1) Issue DoD Instructions, DoD publications, and one-time directive-type memoranda, consistent with DoD 5025.1-M,[4] that implement policies approved by the Secretary of Defense in assigned fields of responsibility. Instructions to the Military Departments shall be issued through the Secretaries of those Departments. Instructions to Unified or Specified Combatant Commands shall be communicated through the Chairman of the Joint Chiefs of Staff.

(2) Obtain reports, information, advice, and assistance, consistent with DoD Directive 7750.5,[5] as necessary, in carrying out assigned functions.

(3) Communicate directly with heads of the DoD Components. Communications to the Commanders in Chief of the Unified and Specified Combatant Commands shall be transmitted through the Chairman of the Joint Chiefs of Staff.

(4) Communicate with other Government Agencies, the Executive Office of the President, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(5) Establish arrangements and appoint representation for DoD participation in non-defense governmental programs for which the ASD(C3I) is assigned DoD cognizance, to include national-level committees.

(6) Waive Federal Information Processing Standards, granted by the Secretary of Commerce Memorandum. The ASD(C3I) may redelegate this authority to the senior officials of the Military Departments designated pursuant to 44 U.S.C. 3506(b). This authority is subject to the conditions specified in the procedures of Secretary of Commerce Memorandum, "Procedures for Waivers for the Federal Information Processing Standards."

(7) Make original security classification determinations at the Top Secret level in accordance with E.O. 12356. This authority may be redelegated, as appropriate, and in writing, pursuant to section 1.2(d)(2) of E.O. 12356.

(b) The ASD(C3I) also is hereby delegated the authorities contained in enclosure 3 of DoD Directive 5105.19,[6] enclosure 1 of DoD Directive 5105.21,[7] enclosure 2 of DoD Directive 5105.40,[8] and enclosure 2 of DoD Directive 5105.42.[9] The ASD(C31) may modify, terminate, or redelegate these authorities, in whole or in part, as appropriate, and in writing, except as otherwise provided by law or regulation.

Dated: February 27, 1992.

L.M. Bynum,

Office of the Secretary of Defense, Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4876 Filed 3-2-92; 8:45 am]

BILLING CODE 3810-01-M

[3] See footnote 1 to § 350.1.

[4] See footnote 1 to § 350.1.

[5] See footnote 1 to § 350.1.

[6] See footnote 1 to § 350.1.

[7] See footnote 1 to § 350.1.

[8] See footnote 1 to § 350.1.

[9] See footnote 1 to § 350.1.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[IL12-15-5346; FRL-4098-5]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of partial stay and reconsideration.

SUMMARY: On July 23, 1991 (56 FR 33712), USEPA announced a three-month partial stay and reconsideration of certain federal rules requiring reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions in the Illinois portion of the Chicago ozone nonattainment area. That action was taken pursuant to Clean Air Act (CAA) section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which authorizes the Administrator to stay the effectiveness of a rule during reconsideration. Elsewhere in the July 23, 1991 Federal Register (at 56 FR 33738) USEPA proposed to extend the stay beyond the three-month period, if and as necessary to complete reconsideration of the subject rules (including any appropriate regulatory action), pursuant to CAA sections 110(c) and 301(a)(1), 42 U.S.C. sections 7410(c) and 7601(a)(1). Public comment was solicited on USEPA's proposed extension of the stay and an opportunity for requesting a public hearing was provided.

No public comments were received in response to USEPA's proposed rulemaking. Today's rulemaking announces USEPA's final rule imposing a stay for the rules under reconsideration, but only if and as necessary to complete reconsideration of these rules.

EFFECTIVE DATE: January 22, 1992.

ADDRESSES: The docket for this action (Docket No. 5AR92-1) is located for public inspection and copying at the following addresses. We recommend that you contact Randolph O. Cano before visiting the Chicago location and Gloris Butler before visiting the Washington, DC location. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region V, Regulation Development Branch, Twenty Sixth Floor, Northeast, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036

U.S. Environmental Protection Agency, Docket No. 5A-91-1, Public Information Reference Unit (pm-211D) Room 2904, Waterside Mall, 401 M Street SW., Washington, DC 20460, (202) 245-3639

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On July 23, 1991 (56 FR 33738) USEPA proposed to extend a three-month stay imposed on July 23, 1991 (56 FR 33712) for the following RACT rules, including the applicable compliance dates being reconsidered: (1) The emission limitations and standards for miscellaneous metal parts and products coating operations only as applied to Duo-Fast Corporation's (Duo-Fast) "power driven metal fastener" manufacturing facility in Franklin Park, Illinois (55 FR at 26868-9, codified at 40

CFR 52.741(e)(1)(i)(j)), as well as the July 1, 1991, compliance date (55 FR at 26872) codified at 40 CFR 52.741(e)(5)); and (2) the emission limitations and standards for miscellaneous organic chemical manufacturing processes only as applied to Stepan Company's (Stepan) manufacturing facility near Millsdale, Illinois (55 FR at 26884, codified at 40 CFR 52.741(w)(3)), as well as the July 1, 1991, compliance date (55 FR at 26884, codified at 40 CFR 52.741(w)(4)).

In the proposed rulemaking, USEPA inadvertently omitted the recordkeeping and reporting requirements, 40 CFR 52.741(y) and 52.741(e)(6), from the list of rules stayed in regard to Stepan and Duofast respectively. Since the recordkeeping and reporting requirements have no meaning independent of the underlying RACT regulations, Duofast and Stepan would not be harmed if those regulations were not stayed as to their facilities. However, USEPA believes it should clarify that these two sources are not subject to the recordkeeping and reporting requirements during the period for which the specified rules have been stayed for those two facilities. Since it is not a substantive change, but merely a clarification, USEPA has specified in the final regulation by which the stay is being granted for Stepan and Duofast that these two companies are not subject to § 52.741(y) and 52.741(e)(6), respectively, during the period of the stay.[1]

The proposed temporary stay beyond the three months expressly provided in section 307(d)(7)(B) was to remain in effect until withdrawn by a subsequent rule, but only if and as necessary to complete USEPA's rulemaking on the reconsidered actions. The July 23, 1991, notice proposed to issue the stay pursuant to CAA sections 100(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a)(1).

Final Rulemaking Action

Because no public comments were received concerning USEPA's proposed rulemaking action to extend the stay beyond the three months provided in section 307(d)(7)(B) of the CAA, USEPA announces an extension of the stay, but only if and as long as necessary to complete reconsideration of the rules identified in the proposal. At that time, USEPA will publish a rule in the **Federal Register** notifying the public of the withdrawal of this stay.

USEPA intends to complete its reconsideration of the rules and, following the notice and comment procedures of section 307(d) of the CAA, take appropriate action. If the reconsideration results in emission limitations and standards which are stricter than the existing and applicable Illinois rules, USEPA will propose a compliance period of one year from the date of final action on reconsideration. Note that a one year compliance period was the general compliance period provided in the federal RACT rules (55 FR at 26814). Like the rules themselves, any USEPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of CAA section 307(d).

USEPA recognizes the interests of the State of Wisconsin in this matter. The regulatory requirements that are affected by today's proposal were undertaken in the context of a settlement agreement between USEPA and the States of Wisconsin and Illinois. In recognition of those obligations, USEPA will reconsider the rules in question as expeditiously as practicable.

This stay will be effective immediately upon signature of the Administrator pursuant to the Administrative Procedure Act, 5 U.S.C. 533(d) (1) and (3) for good cause and because it relieves a restriction.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Dated: January 22, 1992.

William K. Reilly,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS SUBPART O—ILLINOIS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.741, is amended by revising paragraph (z)(3) to read as follows:

§ 52.741 Control Strategy: Ozone Control Measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

* * * * *

(z) * * *

(3) The following rules are stayed from July 23, 1991 until USEPA completes its reconsideration as indicated:

(i) 40 CFR 52.741(e) only as it applies to Duo-Fast Corporation's Franklin Park, Illinois "power-driven metal fastener" manufacturing facility, and

(ii) 40 CFR 52.741 (w) and (y) only as it applies to Stepan Company's miscellaneous organic chemical manufacturing processes at its manufacturing facility located near Millsdale, Illinois.

When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the **Federal Register.**

[FR Doc. 92–2423 Filed 3–2–92; 8:45 am]

BILLING CODE 6560–50–M

[1] Although USEPA must typically provide notice and opportunity for comment on rulemaking actions, section 553(a)(B) of the Administrative Procedure Act allows an agency to forego notice and comment if the agency finds for good cause that it is "impracticable, unnecessary or contrary to the public interest." Since USEPA provided notice that the underlying substantive regulations were being stayed and no comment was received, it is impracticable and unnecessary for the Agency to provide notice and take comment on this nonsubstantive clarification that the recordkeeping and reporting requirements will also be stayed.

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40 CFR Part 52

[FL–030–5317; FRL–4085–7]

Approval and Promulgation of Implementation Plans; Florida: Inspection/Maintenance

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: EPA is today approving revisions to the Florida State Implementation Plan (SIP) which will incorporate regulations for a centralized vehicle Inspection/Maintenance (I/M) program. These revisions were submitted by the State of Florida, through the Florida Department of Environmental Regulation (FDER) on March 20, 1989. Vehicles in Florida ozone and carbon monoxide nonattainment areas would be required to participate in this program in order to renew registration. This plan has been submitted by the FDER in anticipation of continued nonattainment of the National Ambient Air Quality Standard (NAAQS) for ozone. FDER analysis indicated that since the majority of the volatile organic compound (VOC) inventory in Florida results from vehicular emissions, an I/M program is an effective method of controlling these emissions. These regulations meet all EPA requirements and therefore EPA is approving the SIP revisions.

EFFECTIVE DATE: This action will be effective April 2, 1992.

ADDRESSES: Copies of the materials submitted by Florida may be inspected at the following locations during normal business hours:

EPA Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

FOR FURTHER INFORMATION CONTACT: Dale Aspy of the Region IV Air Programs Branch, at the above address or (404) 347-2864 (FTS) 257-2864.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1987, the Florida Legislature created the Motor Vehicle Emissions Study Commission. This was in response to two key issues: (1) Continued ozone nonattainment in various Florida counties; and (2) a Florida Department of Environmental Regulation study that demonstrated that over 70% of the emission of VOC's in Florida resulted from mobile sources.

The Motor Vehicle Emission Study Commission was charged with the responsibility of making a recommendation on an I/M program design that would be effective at both reducing vehicular emissions and protecting the health of the citizens of Florida.

The commission members visited various I/M programs throughout the country to evaluate alternative program designs. Public hearings were also conducted in the nonattainment counties to solicit citizen input. The Florida Motor Vehicle Study Commission delivered its report to Governor Bob Martinez on March 1, 1988. The report concluded that "A centralized, contractor-operator I and M program is best suited to Florida's needs." The report also addressed enforcement, compliance, fleets, waivers, and public education elements.

Following the study, the 1988 Florida Legislature passed Chapter 88-129, Laws of Florida, entitled the Clean Outdoor Air Law (COAL). The law was amended by the 1989 Florida Legislature and is codified in chapter 325, Florida Statutes (F.S.), and § 316.2935, F.S. The Florida Department of Environmental Regulation was charged by COAL to develop test procedures, regulations, and emission standards. This was done in two phases: Phase I involved the implementation of an I/M program in nonattainment counties pursuant to chapter 325, F.S.; and phase II included regulations adopted by the Florida Department of Environmental Regulation pursuant to § 316.2935 of the F.S. to address the tampering and visible emission problem in Florida (Chapters 17-243 and 244). Phase II is being handled in a separate rulemaking package.

After a series of public hearings, the Florida Environmental Regulation Commission, on December 7, 1988, approved Florida Administrative Code, chapter 17-242, Mobile Source—Motor Vehicle Emission Standards and Test Procedures Rule. This rule was adopted by the FDER by filing with the Florida Secretary of State on January 31, 1989. The Florida I/M program was scheduled to begin operation by March 1990, or as soon thereafter as possible. Due to the required one year public information phase, that was conducted by the Florida Department of Motor Vehicles, the program began operation on April 1, 1991.

All counties that are nonattainment for ozone or carbon monoxide will require the program. Currently, Dade, Broward, Palm Beach, Hillsborough, Pinellas, and Duval counties are designated as nonattainment for ozone. There are no counties designated as nonattainment for CO.

The centralized, contractor run program will operate using an annual registration denial enforcement mechanism. Virtually all gas or diesel vehicles, 1975 and newer, that have a net vehicle weight less than 5,000 pounds, or a gross vehicle weight less than 10,000 pounds, must be tested yearly to renew registration. A three point anti-tampering check and "fast pass" idle emissions test will be conducted on each vehicle except those randomly selected for nitrogen oxides (NO_x) testing. The three components of the anti-tampering check are the catalytic converter, unvented fuel cap, and the fuel inlet restrictor. The "fast pass" test consists of measuring the exhaust emissions of a vehicle at idle with no load applied to the dynamometer. See Table 1 for the emission standards. Vehicles failing the idle test will be preconditioned in the loaded mode on a dynamometer, in which a specified resistance will be applied against the driving wheels. The vehicles will be immediately retested at idle. Passing this test and the anti-tampering check allows a vehicle owner to renew registration. Vehicles failing either portion of the I/M test can be retested at either the centralized testing location or at an approved decentralized retesting facility. These retesting facilities must meet all the requirements, including dynamometers, as the centralized facilities.

A full tampering check, including underhood components, must be conducted if the vehicle fails the initial three point tampering test.

The Florida program also requires that NO_x emissions data be gathered for informational purposes only. Approximately one percent of all vehicles tested will be randomly selected for loaded mode and NO_x testing. The data that is collected will be shared with EPA to develop NO_x emission standards.

TABLE 1.—FLORIDA MOTOR VEHICLE EXHAUST EMISSIONS STANDARDS

Groups / Model Year	Maximum emission concentrations HC (ppm)	CO (percent)
Light duty vehicles:		
1975-1977	500	5.0
1978-1979	400	4.0
1980	300	3.0
1981+	220	1.2
Light duty trucks (GVWR of 6,000 pounds or less):		
1975-1977	500	6.0
1978-1979	450	5.0
1980	300	3.0
1981-1984	250	2.0
1985+	220	1.2
Light duty trucks (GVWR of 6,001 pounds to 10,000 pounds):		
1975-1977	750	6.5
1978-1979	600	5.5
1980	400	4.5
1981-1984	300	3.0
1985+	220	1.2

Final Action

EPA is today approving revisions to the Florida SIP incorporating an Inspection/Maintenance (I/M) program. All of the revisions being approved are consistent with Agency policy.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Today's action makes final the action proposed at 55 FR 39017, September 24, 1990. EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from table 1 to table 2 under the processing procedures established at 54 FR 2214, January 19, 1989.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Amendments require the implementation of an I/M program in all moderate classified ozone nonattainment areas. The southeast area of the State of Florida (Broward, Dade, and Palm Beach Counties) has been designated as a moderate ozone nonattainment area and is therefore required to have an I/M program. As a result of the Agency's review of the program's design, it has been determined that this action conforms with the requirements of the Act irrespective of the fact that the submittal preceded the date of enactment.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Note: Incorporation by reference of the Florida State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 5, 1991.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7642.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(73) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(73) Regulations for a centralized vehicle Inspection/Maintenance (I/M) program. These revisions were submitted by the State of Florida, through the Florida Department of Environmental Regulation (FDER) on March 20, 1989.

(i) Incorporated by reference.

(A) Florida Administrative Code, Chapter 17–242, Mobile Source—Vehicle Emission Standards and Test Procedures Rule which were adopted on January 31, 1989.

(ii) Other material.

(A) Letter of March 20, 1989, from the Florida Department of Regulation (FDER).

[FR Doc. 92–4894 Filed 3–2–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 271

(FRL–4110–3)

Michigan: Schedule of Compliance for Modification of Michigan's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Michigan's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986, U.S. EPA promulgated amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications. EPA is today publishing a compliance schedule for Michigan to modify its program in accordance with § 271.21(g) to adopt Federal program modifications.

EFFECTIVE DATE: March 3, 1992.

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, RCRA Program Management Branch, U.S. Environmental Protection Agency, Region V, HRM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–4179 [FTS: 8–886–4179]

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Michigan hazardous waste program within the State in lieu of the Federal hazardous waste program is granted by EPA if the Agency finds the State program: (1) is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6926(b)). EPA regulations for final authorization appear at 40 CFR 271.1–271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR § 271.21. See 51 **Federal Register** (FR) 33712, September 22, 1986, for a complete discusssion of these procedures and deadlines.

B. Michigan

Michigan received final authorization of its hazardous waste program on October 30, 1986 (see 51 FR 36804, October 16, 1986), and subsequent revisions on January 23, 1990 (see 54 FR 48608, November 24, 1989), and June 24, 1991 (see 56 FR 18517, April 23, 1991). On December 5, 1991, Michigan submitted a request under the provisions of 40 CFR 271.21(e)(3) and (g)(1) for an extension of time to obtain necessary program revisions. Today U.S. EPA is publishing a compliance schedule for Michigan to complete program revisions for the following Federal regulations:

1. California List Waste Restrictions; Technical Corrections, 52 FR 41295, October 27, 1987;

2. Exception Reporting for Small Quantity Generators of Hazardous Waste, 52 FR 35894, September 23, 1987;

3. HSWA Codification Rule; Permit Modification 52 FR 45788, December 1, 1987;

4. HSWA Codification Rule; Permit as a Shield Provision, 52 FR 45788, December 1, 1987;

5. HSWA Codification Rule; Permit Conditions to Protect Human Health and the Environment, 52 FR 45788, December 1, 1987;

6. HSWA Codification Rule; Post-Closure Permits, 52 FR 45788, December 1, 1987;

7. Identification and Listing of Hazardous Waste; Technical Correction, 53 FR 27162, July 19, 1988;

8. Farmer Exemptions; Technical Corrections, 53 FR 27164, July 19, 1988;

9. Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138, August 17, 1988;

10. Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988;

11. Land Disposal Restriction Amendment to First Third Scheduled Wastes, 54 FR 8264, February 27, 1989;

12. Land Disposal Restrictions for Second Third Scheduled Wastes, 54 FR 18836, May 2, 1989;

13. Land Disposal Restriction Amendments to First Third Scheduled Wastes, 54 FR 26594, June 23, 1989;

14. Mining Waste Exclusion I, 54 FR 36592, August 14, 1989;

15. Land Disposal Restrictions; Correction to the First Third Scheduled Wastes, 54 FR 36967, September 6, 1989;

16. Testing and Monitoring Activities, 54 FR 40260, September 29, 1989;

17. Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402, October 6, 1989;

18. Reportable Quantity Adjustment, 54 FR 50968, December 11, 1989;

19. Mining Waste Exclusion II, 55 FR 2322, January 23, 1990;

20. Modification of F019 Listing, 55 FR 5340, February 14, 1990;

21. Testing and Monitoring Activities; Technical Corrections, 55 FR 8948, March 9, 1990;

22. Toxicity Characteristics Revisions, 55 FR 11798, March 29, 1990;

23. Listing of 1,1-Dimethylhydrazine Production Wastes, 55 FR 18496, May 2, 1990;

24. Criteria for Listing Toxic Wastes; Technical Amendment, 55 FR 18726, May 4, 1990;

25. HSWA Codification Rule, Double Liners; Correction, 55 FR 19262, May 9, 1990;

26. Land Disposal Restrictions for Third Scheduled Wastes, 55 FR 22520, June 1, 1990;

27. Organic Air Emission Standards for Process Vents and Equipment Leaks, 55 FR 25454, June 21, 1990; and

28. Amendments to the Toxicity Characteristics Revisions, 55 FR 26986, June 29, 1990;

The deadline under 40 CFR 271.21 for Michigan to adopt these Federal regulations was July 1, 1991. However, the State's rulemaking has been delayed due to the delay in obtaining statutory amendments for certain key provisions found in the State's rules package.

The State has agreed to complete the needed program revisions to its authorized program according to the following schedule:

1. The Department of Natural Resources will open public comment on the draft rules package by July 1, 1992. The comment period will end on August 1, 1992.

2. Once the proposed rule package is approved by the Legislative Service Bureau, the Attorney General and the Joint Committee on Administrative Rules, the rules will be submitted to the Michigan Secretary of State for codification in the Act 64 administrative rules. The State expects to complete this process and finally adopt the rules by October 1, 1992.

3. Michigan expects to submit an application to U.S. EPA requesting authorization for the Federal regulations listed above by December 1, 1992.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: February 12, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92-4773 Filed 3-2-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-4108-7]

Guam; Final Authorization of Territorial Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

SACTION: Immediate final rule.

SUMMARY: The Territory of Guam has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. EPA has reviewed Guam's application and has made a decision, subject to public review and comment, that Guam's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Guam's hazardous waste program revisions. Guam's application for program revision is available for public review and comment.

DATES: Final authorization for Guam shall be effective May 4, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Guam's program revision application must be received by the close of business April 2, 1992.

ADDRESSES: Copies of Guam's program revision application are available during the business hours of 9 a.m. to 5 p.m. at the following addresses for inspection and copying:

Guam Environmental Protection Agency, Solid and Hazardous Waste Management, Harmon Plaza, Complex Unit D-107, 103 Rojas Street, Harmon, Guam 96911. Phone: (671) 646-8863/4/5.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, California 94105. Phone: (415) 744-1510.

Writen comments should be sent to April Katsura, U.S. EPA Region IX (H-2-2), 75 Hawthorne Street, San Francisco, California 94105. Phone: 415/744-2026.

FOR FURTHER INFORMATION CONTACT: April Katsura at the above address and phone number.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124 and 270.

B. Guam

Guam initially received final authorization on January 27, 1986. Guam received authorizations for revisions to its program on May 22, 1989 and August 11, 1989. On December 20, 1991, Guam submitted a program revision application for additional program approvals. Today, Guam is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Guam's application, and has made an immediate final decision that Guam's hazardous waste program revision satisfies all of the requirments necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Guam. The public may submit written comments on EPA's immediate final decision up until April 2, 1992. Copies of Guam's application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Guam's program revision shall become effective in 60 days unless an adverse comment pertaining to the Territory's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Guam is applying for authorization for the following Federal hazardous waste regulations:

Federal requirement	Territory authority
Dioxin Waste Listing and Management Standards (50 FR 1978, July 14, 1985)	10 Guam Code Annotated (GCA) 51103 (a)(8) + (11); Hazardous Waste Management Regulations (HWMR) parts III.A,B + E, VI.A + B, VII.A + B, and X.A + B.
Paint Filter Test (50 FR 18370, April 30, 1985)	10 GCA 51103(a)(8) + (11), HWMR parts VIII.A + B.
Small Quantity Generators (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts VIII.A + B.
Household Waste (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts III,A + B.
Waste Minimization (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts IV.A;B + G and X.A + B.
Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves (50 FR 28702, July 15, 1985).	10 GCA 51103(a)(8) + (11); HWMR parts VI.A + B.
Liquids in Landfills (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts VI.A + B, VII.A + B and X.A + B.
Dust Suppression (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR part VIII.A.
Double Liners (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts VI.A + B and VII.A + B.
Ground-Water Monitoring (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts VI.A + B.
Cement Kilns (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B and VIII.B.
Fuel Labeling (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR part VIII.A.
Pre-Construction Ban (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.B + F.
Permit Life (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.A, B + T.
Omnibus Provision (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.B + J.
Interim Status (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.A + B.
Research and Development (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.B + D.
Hazardous Waste Exports (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts IV.A + B.
Exposure Information (50 FR 28702, July 15, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts X.A + B.
Listing of TDI, DNT, and TDA Wastes (50 FR 42936, October 23, 1985)	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B.
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces (50 FR 49164, November 29, 1985, as amended on November 19, 1986 at 51 FR 41900 and April 13, 1987 at 52 FR 11819).	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B, VI.A + B, VII.A + B and VIII.A + B.
Listing of Spent Solvents (50 FR 53315, December 31, 1985, as amended on January 21, 1986).	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B.
Listing of EDB Wastes (51 FR 5330, February 13, 1986)	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B
Listing of Four Spent Solvents (51 FR 6541, February 25, 1986)	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B
Generators of 100 to 1000 kg Hazardous Waste (51 FR 10174, March 24, 1986, as amended on July 19, 1988).	10 GCA 51103(a)(8) + (11); HWMR parts II.D.7, III.A,B,C,D,E, + F,IV.A,B E,F + I,V.C and X.A,B + E.
Codification Rule, Technical Correction (51 FR 19176, May 28, 1986)	10 GCA 51103(a)(8) + (11); HWMR parts VII.A + B.
Biennial Report Correction (51 FR 28556, August 8, 1986)	10 GCA 51103(a)(8) + (11); HWMR parts VI.B,C + G and VII.B,C + G.
Exports of Hazardous Waste (51 FR 28664, August 8, 1986, as amended on July 19, 1988).	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B, IV.A,B,G,J + K and V.A.
Standards for Generators—Waste Minimization Certifications (51 FR 55190, October 1, 1986).	10 GCA 51103(a)(8) + (11); HWMR parts IV.A + B.
Listing of EBDC (51 FR 37725, October 24,1986)	10 GCA 51103(a)(8) + (11); HWMR parts III.A + B.
Standards for Hazardous Waste Storage and Treatment Tank Systems (51 FR 25470, July 14, 1986, as amended on August 15, 1986).	10 GCA 51103(a)(8) + (11); HWMR parts II.A,B,C.20 + D7, III.A + B, IV.A + B, VI.A. B + G; VII.A,B, + G–M; and IX.A + B.

In its application, Guam has not requested approval of authorization for corrective action or the land disposal restrictions. Therefore, at this time the Territory is not being authorized for those provisions.

On May 9, 1989, Guam submitted a revision application which included the standards for hazardous waste storage and treatment tank systems (51 FR 25470, July 14, 1986, as amended on August 15, 1986). On August 11, 1989, Guam received authorization for that provision as well as the others in the application. Refer to 54 FR 32973. However, the August 15, 1986 amendement was inadvertently omitted from the Federal/Territory regulatory crosswalk in the **Federal Register** notice. Therefore, the amendment has been included in the crosswalk for this current notice.

Guam will not have issued any Territorial hazardous waste permits prior to being authorized for the above program revisions. The Territorial program does not include jurisdiction over Indian Lands; there are no Indian Lands in Guam.

C. Decision

I conclude that Guam's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Guam is granted final authorization to operate its hazardous waste program as revised. Guam has responsibility for permitting treatment, storage, and disposal facilities within its boarders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984. Guam also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 and RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291: The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act: Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Guam's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the Territory. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), and 6926, 6974(b).

Dated: February 6, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–4898 Filed 3–2–92; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 513

[APD 2800.12A CHGE 34]

General Services Administration Acquisition Regulation; Revision of GSA Form 3186

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5 (APD 2800.12A), is amended to revise paragraph (c) of section 513.505–2 to prescribe the GSA forms used when making purchases or placing delivery orders against established contracts through the FSS–19 system. This regulation is effective March 1, 1992. However, the April 1987 edition of GSA Form 3186 may continue to be used until reprogramming of the FSS–19 system is complete. Copies of the forms may be obtained from the Director of the Office of GSA Acquisition Policy (VP), 18th and F Streets NW., Washington, DC 20405. The intended effect is to provide guidance to GSA contracting activities and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of GSA Acquisition Policy (VP), (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the **Federal Register** for public comment because it is not a significant revision as defined in FAR 1.501–1.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply because this rule was not required to be published in the **Federal Register** for public comment.

D. Paperwork Reduction Act

The rule does not contain information collection requirements that are subject to OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 513

Government procurement.

Accordingly, 48 CFR part 513 is amended to read as follows:

PART 513—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

1. The authority citation for 48 CFR part 513 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Paragraph (c) of section 513.505–2 is revised to read as follows:

513.505–2 Agency order forms in lieu of Optional Forms 347 and 348.

* * * * *

(c) The GSA Form 3186, Order for Supplies or Services, GSA Form 3186A, Order for Supplies or Services (Small Purchase), or GSA Form 3186B, Order for Supplies or Services (EDI), must be used instead of the OF 347, Order for Supplies or Services, when making small purchases or placing delivery orders against established contracts through the FSS–19 system. The GSA Form 3186 must be used when generating orders against established contracts that will be mailed to contractors. The GSA Form 3186A must be used when orders, utilizing small purchase procedures, will be mailed to the contractors. The GSA Form 3186B must be generated and placed in the file to document delivery orders and purchase orders transmitted to contractors electronically using Electronic Data Interchange (EDI) procedures. The GSA Form 3186C, Purchase Order Notice, or electronic equivalent, simultaneously will be generated by FSS–19 to provide summary data from the order to the consignee and the freight forwarder (if designated).

* * * * *

Dated: February 21, 1992.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 92–4846 Filed 3–2–92; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Part 522

[APD 2800.12A CHGE 35]

General Services Administration Acquisition Regulation; Designation of Agency Labor Advisor

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise various sections in part 522 to designate the Director of the Office of GSA Acquisition Policy as the agency labor advisor and to outline the responsibilities of the agency labor advisor and other agency officials.

EFFECTIVE DATE: March 10, 1992.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the **Federal Register** for public comment because it does not have significant effects beyond the internal operations of the agency, and does not have a significant cost or administrative impact on offerors or contractors.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because it was not required to be published for public comment.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

List of Subjects in 48 CFR Part 522

Government procurement.

48 CFR part 522 is amended as set forth below:

PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1. The authority citation for 48 CFR continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 522.000 and 522.001 are added to read as follows:

522.000 Scope of part.

This part provides agency policies regarding contractor labor relations as they relate to the acquisition process; procedures for implementing requirements for FAR part 22; and it also precribes contract clauses for use in certain contracts.

522.001 Definition.

"Agency labor advisor" as used in this part means the Director of the Office of GSA Acquisition Policy.

Subpart 522.1—Basic Labor Policies

3. Section 522.101–1 is revised to read as follows:

522.101–1 General.

(a) In conjunction with the Office of General Counsel (OIG), the agency labor advisor:

(1) Serves as the focal point on matters that relate to contractor labor relations;

(2) Is responsible for initiating contact on labor relations matters with national offices of labor organizations, Government departments, agencies or other governmental organizations;

(3) Serves as a clearinghouse for information on labor laws applicable to Government acquisitions; and

(4) Responds to questions involving FAR part 22, GSAR part 522 or other contractor labor relations matters that arise in connection with GSA acquisition programs. OGC is responsible for determining the agency's legal position with respect to these matters.

(b) GSA personnel in discharge of their duties and consistent with FAR 22.101–1(b), shall refrain from involvement in or expressing a position on, labor negotiations between contractors and unions or on the merits of any dispute between labor and a contractor's management.

4. Section 522.101–3 is added to read as follows:

522.101–3 Reporting labor disputes.

Reports required by FAR 22.101–3 must be submitted to the agency labor advisor.

5. Section 522.103–5 is added to read as follows:

522.103–5 Contract clause.

The contracting officer shall include the clause at FAR 52.222–1, Notice to the Government of Labor Disputes, in solicitations and contracts for items on the DoD Master Urgency List.

6. Section 522.406–13 is revised to read as follows:

522.406–13 Semiannual enforcement reports.

Contracting activities shall submit semiannual enforcement reports to the agency labor advisor (See 522.001) for consolidation and submission to the Department of Labor. The reports should be submitted within 15 calendar days after the end of the reporting period.

7. Section 522.807 is revised to read as follows:

522.807 Exemptions.

Requests for exemption under FAR 22.807(c) must be submitted to OFCCP through the agency labor advisor.

522.1001 [Removed]

8. Section 522.1001 is removed.

9. Section 522.1003–4 is revised to read as follows:

522.1003–4 Administrative limitations, variations, tolerances, and exemptions.

Requests for limitations, variations, tolerances, and exemptions from the Service Contract Act under FAR 22.1003–4(a) must be submitted to the Administrator, Wage and Hour Division, through the agency labor advisor. The contracting officer shall coordinate requests with assigned legal counsel and the contracting director before forwarding to the agency labor advisor.

10. Section 522.1003–7 is revised to read as follows:

522.1003–7 Questions concerning applicability of the Act.

Questions under FAR 22.1003–7 regarding the applicability of the Act may also be directed to assigned legal counsel. Unresolved questions shall be submitted to the Administrator, Wage and Hour Division through the agency labor advisor.

11. Section 522.1013 is added to read as follows:

522.1013 Review of wage determination.

In addition to contacting the agency labor advisor under FAR 22.1013, the contracting officer shall consult with assigned legal counsel when considering instituting a request for a substantial variance hearing under FAR 22.1021.

12. Section 522.1014 is added to read as follows:

522.1014 Delay of acquisition dates over 60 days.

Requests under FAR 22.1014 to determine whether the wage determinations issued under the initial submission are still current may be made by the contracting officer.

13. Section 522.1021 is revised to read as follows:

522.1021 Substantial variance hearings.

The contracting officer shall submit, after coordinating with assigned legal counsel, any request for a hearing under FAR 22.1013(a) through the agency labor advisor to the Administrator, Wage and Hour Division.

14. Section 522.1303 is revised to read as follows:

522.1303 Waivers.

Requests for waivers under FAR 22.1303(c) must be submitted to the Administrator through the agency labor advisor.

15. Section 522.1403 is revised to read as follows:

522.1403 Waivers.

Request for waivers under FAR 22.1403(c) must be submitted to the Administrator through the agency labor advisor.

Dated: February 25, 1992.

Richard H. Hopf, III,

Associated Administrator for Acquisition Policy.

[FR Doc. 92–4847 Filed 3–2–92; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 587

[Docket No. 88–06; Notice 16]

RIN 2127–AE05

Federal Motor Vehicle Safety Standards; Side Impact Protection

AGENCY National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Technical amendments.

SUMMARY: On October 30, 1990, NHTSA published in the **Federal Register** a final rule adding dynamic test procedures and performance requirements to Standard No. 214 (55 FR 45722). The dynamic test requirements of Standard No. 214 are phased in over a three-year period, beginning on September 1, 1993. At the same time, NHTSA also published final rules (1) establishing the specifications for the side impact dummy to be used in the dynamic crash test (55 FR 45757), (2) establishing the attributes of the moving deformable barrier (MDB) to be used in the dynamic crash test (55 FR 45770), and (3) establishing the reporting and recordkeeping requirements necessary for NHTSA to enforce the phase-in of the new requirements (55 FR 45768).

This notice makes technical amendments to the rule concerning the specifications of the MDB. The technical amendments concern the axle length of the MDB in the crabbed mode and the wheel hub specified in the MDB drawings incorporated by reference in the rule. The amendments result from petitions for reconsideration of the October 1990 rule. The petitions were denied by NHTSA except with respect to the issues addressed in this notice.

DATES: The amendments made by this rule to the text of the Code of Federal Regulations are effective April 2, 1992. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of April 2, 1992. Petition for reconsideration of this final rule must be filed by April 2, 1992.

ADDRESSES: Petitions for reconsideration should refer to the above docket and notice numbers and be submitted to the following: Administrator, room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. It is requested that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kanianthra, Chief, Side and Rollover Crash Protection Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-4924).

SUPPLEMENTARY INFORMATION NHTSA's safety standard for side impact protection is Federal Motor Vehicle Safety Standard No. 214. On October 30, 1990, NHTSA published in the **Federal Register** a final rule adding dynamic test procedures and performance requirements to Standard No. 214 (55 FR 45722). The dynamic test requirements of Standard No. 214 are applicable to passenger cars and are phased in over a three-year period, beginning on September 1, 1993. At the same time, NHTSA also published final rules (1) establishing the specifications for the side impact dummy to be used in the dynamic crash test (55 FR 45757), (2) establishing the attributes of the moving deformable barrier to be used in the dynamic crash test (55 FR 45770), and (3) establishing the reporting and recordkeeping requirements necessary for NHTSA to enforce the phasing-in of the new dynamic test procedure (55 FR 45768).

NHTSA received petitions for reconsideration of these final rules from (1) the Motor Vehicle Manufacturers Association (MVMA), (2) Ford Motor Company, (3) the Association of International Automobile Manufacturers, and (4) the International Standards Organization. The agency denied the petitions except with respect to requests for certain changes in specifications concerning the axle length of the MDB in the crabbed mode and the wheel hub of the MDB. The agency indicated that it planned to issue a separate final rule concerning those issues shortly.

In its petition, MVMA noted that the regulatory text of the final side impact rules specify the MDB track width as 63 inches. MVMA asserted that drawing DSL-1287, which is incorporated by reference in the final rules, specifies 61.44 inches for the crabbed axle. MVMA stated that the addition of 6.6 inches for the wheel mounting plate and wheel produces a crabbed track width of 68.04 inches. MVMA requested that this discrepancy be corrected. MVMA also stated that the MDB drawings specify old American Motors Corporation (AMC) wheel hubs. MVMA requested that more readily available components be specified to facilitate maintenance and repair.

NHTSA agrees with MVMA that the specification of 63 inches for the MDB track width is incorrect. The 63 inch dimension is for the MDB with a fixed axle. However, the side impact test procedure uses the MDB with a crabbable axle. The track width for the MDB with a crabbable axle is 74 inches. This specification can be derived from the MDB drawings as follows. The axle length for the crabbable barrier is 67.49 inches. Adding the wheel hub and tires increases the track width to 74.0 inches. NHTSA notes that the specification for the MDB track width appears in both figure 2 of Standard No. 214 and part 587. The agency corrected the MDB track width specification in figure 2 of Standard No. 214 in a notice published in the **Federal Register** (56 FR 47007) on September 17, 1991. The agency is correcting the Part 587 MDB track width specification in this notice.

NHTSA notes that the 61.44 inch dimension cited by MVMA for the crabbed axle is incorrect and does not appear in drawing DS1-1287. That organization may have used the barrier track width of 63.0 inches for the straight configuration to calculate the axle length for the crabbed configuration. This mistake is understandable since the axle length for the crabbed configuration can be obtained only by adding several other dimensions in different parts of the MDB drawings. Therefore, NHTSA is also amending the rule concerning the MDB to incorporate by reference one additional drawing. This drawing, DSL-1290, will alleviate confusion concerning barrier specifications.

In additon, NHTSA is amending the same rule to delete the specifications of the AMC wheel hubs that are not readily available. NHTSA is doing this by incorporating by reference an amended drawing DSL-1283 to replace the one that specified the AMC parts. The amended drawing provides generic specifications for the MDB wheel hubs. Conforming amendments are being made in other drawings. NHTSA is also incorporating by reference an amended drawing DSL-1285 to delete any reference to a particular manufacturer's barrier face. Since another company intends to manufacture barrier faces that meet the specifications of the side impact rules, NHTSA believes that this change is appropriate. The reference to a particular company in the earlier version of the drawing was inadvertent.

These amendments make minor technical changes to the final rule concerning the MDB and their early adoption is necessary to avoid difficulty and confusion. One amendment provides additional clarification to avoid confusion concerning barrier axle length in the crabbed configuration. Another amendment provides relief by deleting reference to wheel hubs for the MDB that are difficult to obtain. Therefore, NHTSA finds good cause to make these amendments effective 30 days after publication of this notice.

Rulemaking Analyses

A. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this final rule and determined that it is not "major" within the meaning of Executive Order 12291. While the October 1990 side impact rule was "significant" within the meaning of Department of Transportation regulatory policies and procedures, this final rule only makes minor technical changes to the rule concerning the MDB for the dynamic side impact test procedure. The changes will not result in any quantifiable impacts, and the Final Regulatory Impact Analysis done in connection with the October 1990 final side impact rules is still valid.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this final rule would not have a significant economic impact on a substantial number of small entities. The final rule makes only minor technical changes to the current rule concerning the MDB for the dynamic side impact test procedure. The analysis contained in the Final Regulatory Impact Analysis for the final side impact rules is still valid.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the final rule has no Federalism implications that warrants the

preparation of a Federalism report. The final rule makes only minor technical changes to the current rule concerning the MDB for the dynamic side impact test procedure.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this final rule. The agency has determined that this final rule does not have a significant impact on the quality of the human environment. As discussed above, the final rule makes only minor technical changes to the current rule concerning the MDB for the dynamic side impact test procedure.

List of Subjects in 49 CFR Part 587

Incorporation by reference, Motor vehicle safety, Motor vehicles.

Part 587—[AMENDED]

In consideration of the foregoing, 49 CFR part 587 is amended as follows:

1. The authority citation for Part 587 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 587.6 is amended by revising paragraphs (b) introductory text, (b)(1), (b)(3), (b)(5), (b)(7), (c), and adding paragraph (b)(8) to read as follows:

§ 587.6 General Description.

* * * * *

(b) The moving deformable barrier specifications are provided in the drawings shown in DSL–1278 through DSL–1287, except DSL–1282, and the drawing shown in DSL–1290 (DSL–1278 through DSL–1287, except for DSL–1282, and DSL–1290 are incorporated by reference; see § 587.5).

(1) The specifications for the final assembly of the moving deformable barrier are provided in the drawings shown in DSL–1278, dated October 1991.

* * * * *

(3) The specifications for the face of the moving deformable barrier are provided in the drawings shown in DSL–1285, dated October 1991, and DSL–1286, dated August 20, 1980.

* * * * *

(5) The specifications for the hub assembly and details concerning the brake are provided in drawings shown in DSL–1283, dated October 1991.

* * * * *

(7) The specifications for the research axle assembly are provided in drawings shown in DSL–1287, dated October 1991.

(8) The specifications for the compliance axle assembly are provided in drawings shown in DSL–1290, dated October 1991.

(c) In configuration 2 (with two cameras and camera mounts, a light trap vane, and ballast reduced), the moving deformable barrier (crabbable axle), including the impact surface, supporting structure, and carriage, weighs 3,015 pounds, has a track width of 74 inches, and has a wheelbase of 102 inches.

* * * * *

Issued on February 26, 1992.

Jerry Ralph Curry,

Administrator.

[FR Doc. 92–4812 Filed 3–2–92; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 57, No. 42
Tuesday, March 3, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-10-AD]

Airworthiness Directives; Beech 33 and 36 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede AD 91-23-07, which currently requires initial and repetitive inspections of the rudder forward spar for cracks on certain Beech 33 and 36 series airplanes, replacement if found cracked, and an extension of the repetitive inspections if a Space Machine Products (SMP) reinforcement bracket is installed. The proposed action would retain the requirements of AD 91-23-07, but would require accomplishment in accordance with new service information and would also eliminate the need for the repetitive inspections if one of three modifications to the rudder spar is accomplished. The actions specified by this AD are intended to prevent the rudder from separating from the airplane.

DATES: Comments must be received on or before May 13, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-10-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4122; Facsimile (316) 936-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-10-AD." The postcard will be date stamped and returned to the commenter.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 92-CE-10-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-10-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 91-23-07, Amendment 39-8076 (56 FR 56149, November 1, 1991), currently requires initial and repetitive inspections of the rudder forward spar for cracks on certain Beech 33 and 36 series airplanes, replacement if found cracked, and an extension of the repetitive inspections if a Space Machine Products (SMP) reinforcement bracket is installed. The inspections and possible replacement required by AD 91-23-07 are accomplished in accordance with the instructions in Beech Service Bulletin No. 2333, dated October 1989.

The Federal Aviation Administration has continued to examine information that is pertinent to the actions required by AD 91-23-07 and has determined that a modification to the rudder forward spar on certain Beech 33 and 36 series airplanes would eliminate the need for the repetitive inspections currently required. This modification consists of one of the following:

1. Replacement of the rudder assembly with part number 33-630000 -137, -139, -141, -167, or -169, whichever is applicable;
2. Installation of Kit 33-6001-1 S; or
3. Installation of a Spacecraft Machine Products (SMP) reinforcement bracket in accordance with Supplemental Type Certificate (STC) SA4899NM.

The manufacturer, Beech, has issued Service Bulletin (SB) No. 2333, dated November 1991. This service bulletin specifies procedures for inspecting and replacing the rudder forward spar, and references a rudder forward spar reinforcement kit and part numbers for replacement forward spars.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that further AD action should be taken to prevent the rudder from separating from the airplane.

Since the condition described is likely to exist or develop in other Beech 33 and 36 series airplanes of the same type design, the proposed AD would retain the requirements of AD 91-23-07, but would require accomplishment in accordance with new service

information and would also eliminate the need for the repetitive inspections if one of three modifications to the rudder forward is accomplished. The proposed actions would be accomplished in accordance with the instructions in Beech SB No. 2333, Revision I, dated November 1991.

The FAA estimates that 5,900 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 hours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $649,000. AD 91-23-07, which would be superseded by the proposed action, required the same actions as is proposed, except for a revision in the service information and the option of eliminating repetitive inspections by accomplishing one of three modifications. Therefore, there would be no additional cost impact of the proposed AD on U.S. operators than that which is already required by AD 91-23-07.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91-23-07, Amendment 39-8076 (56 FR 56149, November 1, 1991), and adding the following new AD:

Beech: Docket No. 92-CE-10-AD.

Applicability: The following Beech model and serial numbered airplanes, certificated in any category.

Models	Serial No.
35-33, 35-A33, 35-B33, 35-C33, E33, F33, G33	CD-1 through CE-1304.
35-C33A, E33A, F33A	CE-1 through CE-1425.
E33C, F33C	CJ-1 through CJ-179.
36, A36	E-1 through E-2518.
A36TC, B36TC	EA-1 through EA-500.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished (superseded AD 91-23-07).

To prevent separation of the rudder on the affected airplanes, accomplish the following:

(a) Upon the accumulation of 1,000 hours time-in-service (TIS) or within the next 100 hours TIS, whichever occurs later, inspect the rudder forward spar for cracks in accordance with the instructions in Beech Service Bulletin (SB) No. 2333, Revision 1, dated November 1991.

(b) If no cracks are found per the inspection required in paragraph (a) of this AD, accomplish one of the following:

(1) Reinspect the rudder forward spar for cracks in accordance with the instructions in Beech Service Bulletin (SB) No. 2333, Revision 1, dated November 1991, at intervals not to exceed 500 hours TIS until either paragraph (b)(1), (b)(2), or (b)(3) of this AD is accomplished;

(2) Install Kit No. 33-60001-1 S in accordance with Beech SB No. 2333, Revision 1, dated November 1991;

(3) Install a Spacecraft Machine Products (SMP) reinforcement bracket in accordance with Supplemental Type Certificate (STC) SA4899NM; or

(4) Replace the rudder assembly with either part number 33-630000-137, -139, -141, -167, or -169, whichever is applicable, in accordance with the instructions in Beech SB No. 2333, Revision 1, dated November 1991;

(c) If cracks are found per the inspection required by paragraph (a) of this AD, prior to further flight, accomplish one of the following:

(1) Replace the rudder assembly with either part number 33-630000-137, -139, -141, -167, or -169, whichever is applicable, in accordance with the instructions in Beech SB No. 2333, Revision 1, dated November 1991;

(2) Install Kit No. 33-60001-1 S in accordance with Beech SB No. 2333, Revision 1, dated November 1991; or

(3) If the cracks are only in the area of the upper hinge around the rivets and fasteners as specified in Beech SB No. 2333, Revision 1, dated November 1991, then a SMP reinforcement bracket may be installed in accordance with SA4899NM after the cracks are stop drilled.

(d) If a modification or replacement has been accomplished in accordance with either paragraph (b)(2), (b)(3), (b)(4), (c)(1), (c)(2), or (c)(3) of this AD, then no repetitive inspections nor further action is required by this AD.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 92-4836 Filed 3-2-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-97-AD]

Airworthiness Directives; Piper Aircraft Corporation Models PA-36-300 and PA-36-375 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to certain Piper Aircraft Corporation (Piper) PA-36-300 and PA-36-375 airplanes. The proposed action would require repetitive inspections of the engine mount structure for cracks at the engine mount attach points until gusset attachments are installed, and the mandatory installation of gusset attachments if cracks are found. The Federal Aviation

Administration (FAA) has received several reports of cracking at the weld clusters that join the tubing of the engine mount on the affected airplanes. The actions specified by this AD are intended to prevent separation of the engine from the airplane because of a cracked engine mount structure.

DATES: Comments must be received on or before May 11, 1992.

ADDRESSES: Piper Service Bulletin No. 828, dated April 7, 1986, may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-97-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91-CE-97-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-97-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several Malfunction or Defect (M or D) reports of certain Piper Models PA-36-300 and PA-36-375 airplanes with cracks discovered at the weld clusters that join the tubing of the engine mount structure. This condition, if not detected and corrected, could result in the engine separating from the fuselage on the affected airplanes.

The manufacturer (Piper Aircraft Corporation) has issued Piper Service Bulletin (SB) No. 828, dated April 7, 1986, which specifies procedures for inspecting and repairing the areas adjacent to and including the welds at the engine mount attach areas on certain Piper Models PA-36-300 and PA-36-375 airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent separation of the engine from the airplane because of a cracked engine mount structure.

Since the condition described is likely to exist or develop in other Piper Models PA-36-300 and PA-36-375 airplanes of the same type design, the proposed AD would require repetitive inspections of the engine mount structure for cracks at the engine mount attach points until gusset attachments are installed, and the mandatory installation of gusset attachments if cracks are found. The actions would be done in accordance with Piper SB No. 828, dated April 7, 1986.

The FAA estimates that 308 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 16 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $271,040.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows.

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 91-CE-97-AD.

Applicability: Model PA-36-300 airplanes (serial numbers 36-7760001 through 36-8160023) and Model PA-36-375 airplanes (serial numbers 36-7802001 through 36-8302025), certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent separation of the engine from the airplane because of a cracked engine mount structure, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect the welds and areas adjacent to the welds at each engine mount attachment point for cracks in accordance with the Instructions: Inspection, in Piper Service Bulletin (SB) No. 828, dated April 7, 1986.

(1) If cracks are found, prior to further flight, install gusset attachments in accordance with the Instructions: Repair, in Piper SB No. 828, dated April 7, 1986.

(2) If cracks are not found, reinstall the forward side panels and reinspect at intervals not to exceed 100 hours TIS.

Note: The compliance times referenced in this AD take precedence over those cited in the reference service information.

(b) The installation described in paragraph (a)(1) of this AD may be accomplished at any time as terminating action for the repetitive inspections required by this AD.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4839 Filed 3-2-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-CE-14-AD]

Airworthiness Directives: SOCATA Groupe AEROSPATIALE TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to certain SOCATA Groupe AEROSPATIALE TBM 700 airplanes. The proposed action would require the installation of a static discharger on the left hand anti-ice windshield. The Federal Aviation Administration (FAA) has received four reports of punctures in the windshields of the affected airplanes because of electrostatic precipitation buildup on the windshield. This condition could lead to a cracked or broken anti-ice windshield. The actions specified in the proposed AD are intended to prevent punctured windshields caused by electrostatic precipitation buildup, which could lead to decompression injuries.

DATES: Comments must be received on or before May 18, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; Telephone 62.41.74.26; Facsimile 62.41.74.32; or the Product Support Manager, U.S. AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; Facsimile (214) 641-3527. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-14-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; Facsimile (322) 230.68.99; or Mr. Richard Yotter, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-14-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-14-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain SOCATA Groupe AEROSPATIALE TBM 700 airplanes. The DGAC reports four cases of punctured windshields on the affected airplanes because of electrostatic precipitation buildup on the windshield. This condition could lead to a cracked or broken anti-ice windshield.

The manufacturer (SOCATA Groupe AEROSPATIALE) issued Socata Technical Instruction OPT70 K004, dated November 1991, which specifies procedures for installing a static discharger on the left hand anti-ice windshield of certain Socata TBM 700 airplanes. The DGAC classified this service information as mandatory and issued DGAC AD 92-001(B), dated January 18, 1992, in order to assure the airworthiness of these airplanes in France. This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of

the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Since the condition described is likely to exist or develop in other SOCATA Group AEROSPATIALE TBM 700 airplanes of the same type design, the proposed AD would require the installation of a static discharger on the left hand anti-ice windshield in accordance with the instructions in Socata Technical Instruction OPT70 K004, dated November 1991.

The FAA estimates that 2 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $[illegible]00.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory FlexibilityAct. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Socata Groupe Aerospatiale: Docket No. 92–CE–14–AD.

Applicability: TBM 700 airplane (serial numbers 1 and 5), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent punctured windshields caused by electrostatic precipitation buildup, which could lead to decompression injuries, accomplish the following:

(a) Install a static discharger on the left hand anti-ice windshield in accordance with the instructions in Socata Technical Instruction OPT70 K004, dated November 1991.

Note: The parts required by paragraph (a) of this AD are included in Kit No. OPT70 K004. This kit may be obtained at no cost by contacting the manufacturer at the address referenced in paragraph (d) of this AD.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(d) Copies of the service information and Kit No. OPT70 K004 that are applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France, or may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4835 Filed 3–2–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY
Internal Revenue Service

26 CFR Part 1

[CO–111–90]

RIN 1545–AQ05

Revision of Section 338 Consistency Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (CO–111–90), which was published on Tuesday, January 14, 1992, (57 FR 1409). The proposed regulations replace the stock and asset consistency rules of §§ 1.338–4T and 1.338–5T of the temporary Income Tax Regulations.

FOR FURTHER INFORMATION CONTACT: Michael B. Fulton at telephone (202) 566–2454 (not a toll-free number) for domestic issues and Kenneth D. Allison at telephone (202) 566–6442 (not a toll-free number) for international issues.

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections is proposed regulations under sections 304 and 338 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (CO–111–90), which was the subject of FR Doc. 92–718, is corrected as follows:

Paragraph 1. On page 1410, column 1, in the preamble, under the heading "1. The Current Consistency Rules", second full paragraph, lines one and two, the language "The stock consistency rules of § 1.338-4T(e), require the P group to treat", is corrected to read "The stock consistency rules of § 1.338-4T(e) require the P group to treat".

Paragraph 2. On page 1416, in § 1.338-0, column 1, the entry for § 1.338(b)–1(c)(3) is corrected to read "Sample AGUB formula.".

Paragraph 3. On page 1426, in § 1.336–3(d)(5) *Example 8*(a), in the table, line one, the language—

	Class	Basis	FMV
1. Cash	I	$10,000	

is corrected to read—

	Class	Basis	FMV
1. Cash	I		$10,000

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-4902 Filed 3-2-92; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

31 CFR Subchapter A

Financial Management Service; Written Comments on Regulations

AGENCY: Financial Management Service.

ACTION: Notice for written comments on regulations in 31 Code of Federal Regulations (CFR) parts 200 through 290.

SUMMARY: In response to the President's announcement of a Federal regulatory review, this notice invites written suggestions from interested persons on 31 CFR parts 200–290. The Financial Management Service is conducting an internal evaluation of all regulations in its jurisdiction. The purpose is to examine the interactive relationship between the regulations and the economy. Regulations that are identified to be cumbersome will be eliminated, revised, or reduced. It is FMS's goal to promote economic growth and to minimize burdens imposed by regulations.

DATES: While earlier responses would be appreciated, written comments should be received by close of business, March 20, 1992.

ADDRESSES: Send written comments to: The Financial Management Service, Room 206, 401 14th Street, SW., Washington, DC 20227, Attention: Regulatory Review.

FOR FURTHER INFORMATION CONTACT: John Scott, Administrative Contact, room 206, Financial Management Service, 401 14th Street, SW., Washington, DC 20227, (202) 874–6960.

SUPPLEMENTARY INFORMATION: The Financial Management Service Department of Treasury, has responsibility for over $2 trillion annually in collections and disbursements as well as program responsibilities for cash management, credit administration, and debt collection activities throughout the Government. The FMS is soliciting comments from private sector groups, the financial community, and the general public as guidance to foster economic growth and minimize regulatory burdens. Commenters are asked to make their suggestions as specifc as possible and, if applicable, identify the statutory changes that are needed to reduce impediments to economic growth or eliminated unnessarily burdensome or costly requirements. The FMS will then forward appropriate legislative changes to Congress. A breakdown of chapter II of the CFR is listed below.

Dated: February 27, 1992.

Russel D. Morris,

Commissioner.

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—FINANCIAL MANAGEMENT SERVICE

Part	Description
202	Depositaries and financial agents of the Government.
203	Treasury tax and loan depositaries.
204	Responsibilities and liabilities under Letter of Credit—Treasury Financial Communications System (LOC-TFCS).
205	Withdrawal of cash from the Treasury for advances under Federal grant and other programs.
206	Management of Federal Agency Receipts and Operations of the Cash Management Improvements Fund.
209	Payment to financial institutions for credit to accounts of employees and beneficiaries.
210	Federal payments through Financial institutions by Automated Clearing House Method.
211	Delivery of checks and warrants to addresses outside the United States, its territories and possessions.
214	Depositaries for Federal taxes.
215	Withholding of District of Columbia, State, city and county income or employment taxes by Federal Agencies.
223	Surety companies doing business with the United States.
224	Federal process agents of surety companies.
225	Acceptance of bonds, notes, or other obligations issued or guaranteed by the United States as security in lieu of surety or sureties on penal bonds.
226	Recognition of insurance covering Treasury tax and loan depositaries.
235	Issuance of settlement checks for forged checks drawn on designated depositaries.
240	Indorsement and payment of checks drawn on the United States Treasury.
245	Claims on account of Treasury checks.
248	Issue of substitutes of lost, stolen, destroyed, mutilated and defaced checks of the United States drawn on accounts maintained in depositary banks in foreign countries or United States territories or possessions.
250	Payment on account of awards of the Foreign Claims Settlement Commission of the United States.
251	Payment of unclaimed interest on certain awards of the Mixed Claims Commission, United States and Germany.
253	Payments under the Act of Congress approved August 30, 1962, on unpaid balances of awards of Philippine War Damage Commission.
254	Payments on accounts of awards and appraisals in favor of nationals of the United States on claims against the Government of Mexico.
256	Payments under judgments and private relief acts.
257	Payment on account of deposits in the Postal Savings System.
270	Availability of records.
281	Foreign exchange operations.
290	Loans to public or private agencies under Refugee Relief Act of 1953.

[FR Doc. 92-4910 Filed 3-2-92; 8:45 am]

BILLING CODE: 4810-35-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL-4111-8]

Ninety Day Economic Review of Regulations

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: This document requests public comments that will assist the Environmental Protection Agency (EPA) in responding to a directive from President Bush. The directive requests the Agency to undertake a 90-day review to identify any unnecessary and burdensome regulations which impose needless costs on consumers and substantially impede economic growth, and to accelerate actions which will promote economic growth. EPA invites the public to make written comments and/or to attend several open meetings.

DATES: EPA invites members of the public to make written comments by March 20, 1992. Because the 90-day period will conclude on April 27, 1992, comments received later than March 20, 1992, will still be welcome, but EPA may not be able to consider them fully in this 90-day review. EPA will also include discussion of possible regulatory changes at several meetings open to the public (see **SUPPLEMENTARY INFORMATION** below). At these meetings EPA hopes to consider any written comments that have been received on the areas being discussed; thus it would

be helpful (although not required) if written comments on issues that might be discussed at these meetings are received at least several days before the meetings. There will also be time set aside at these meetings for members of the public to speak.

ADDRESSES: Five copies of each set of written comments should be sent to: Assistant Administrator for Policy, Planning and Evaluation (PM-219), Attention: 90-Day Review, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Comments should include the docket number FRL-4111-8. The public docket will include copies of all written comments received in response to this notice. The docket will be available for public review at EPA Headquarters during normal business hours. To review the docket please contact Mark Goldman at EPA Headquarters, (202)260-4454.

FOR FURTHER INFORMATION CONTACT: For general information contact: Mark Goldman, (202)260-4454, Office of Communications, Education and Public Affairs (A-107), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. For specific information about one of the public meetings or particular EPA programs, see **SUPPLEMENTARY INFORMATION** below.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1992, President Bush requested the Administrator of the Environmental Protection Agency, along with the heads of other Federal regulatory departments and agencies to "set aside a 90-day period * * * to evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden or otherwise promote economic growth." The President asked the Agency to identify those regulations which impose substantial costs on the economy and to determine whether each such regulation adheres to a set of five standards or criteria which he set out in his memorandum. He further requested the Agency to work closely with the public and other agencies on this effort and to make a report to him at the end of the 90-day period. (See Weekly Compilation of Presidential Documents, February 17, 1992, Vol. 28 No. 7, pg. 232, "Reducing the Burden of Government Regulation," Memorandum from President George Bush, January 28, 1992, and "Regulatory Coordination," Memorandum from President George Bush, January 28, 1992.)

In response to this directive, EPA has initiated a review of its regulations and related activities. In a memorandum to key Agency staff, EPA Administrator William K. Reilly stated that the President's request "presents EPA with an opportunity to accelerate the use of innovative, cost-minimizing regulatory approaches and to speed pro-growth activities. It also provides an opportunity to reconsider regulations that unnecessarily impede economic growth." (See Appendix 1 "90-Day Economic Review of Regulations," Memorandum from Administrator William K. Reilly, February 5, 1992.)

Administrator Reilly's memorandum stated that to fulfill the President's request, EPA will undertake "a 90-day effort to identify specific steps we could take in each of these areas, and to provide an assessment of the economic effects of suggested actions * * *. All of these actions must be consistent with our statutory mandates and environmental objectives." The memorandum further stated that, "In fact these initiatives promise to advance environmental interests, which is the President's objective, by better integrating our efforts with national economic priorities of promoting jobs, investment and growth." Administrator Reilly's memorandum made it clear that the intent of EPA's review is not to slow down environmental progress, but rather to find ways to achieve this progress in protecting public health and the environment in a more economically efficient manner.

In order to make this 90-day review as meaningful as possible, EPA plans to select a limited number of specific regulations and related activities which appear to present special opportunities to promote the President's goals and to focus its analysis on them. Although EPA will be preparing a report for the President on the review at the end of 90 days, some of the analyses may continue past that time.

For its review, EPA will select the topics for focussed analysis from existing and proposed individual regulations, groups of regulations, non-regulatory programs and policies and procedures that implement those regulations and programs. The Administrator's memorandum and the section of this notice entitled "Program Office Reviews and Public Meetings" list several topics that are already being considered for this review and on which EPA would especially appreciate comments.

Public comments on regulations under development will continue to proceed through the normal notice and comment process, and this notice does not extend those comment periods. Further, any revisions to regulations initiated as a result of this review will be made only after full notice and comment.

Thus, the purpose of this request for public comment is to invite interested members of the public to identify regulations and related activities for EPA's review and to provide information that would be useful to EPA in its review.

Guidelines for Comments

In light of the short time available for this review, the Agency makes the following requests concerning any comments that members of the public choose to submit:

1. Each regulation or related activity that a commenter suggests for review should meet the President's criteria as well as meet the following tests:

(a) Any suggested changes that might be made as a result of the review must be within EPA's statutory authority.

(b) Significant economic savings would be possible if changes are made.

(c) Proposed changes will not compromise environmental protection goals.

2. Because EPA intends to focus its review on a limited number of regulations and related activities, commenters who suggest more than one regulation or related activity for review should also suggest which one(s) should receive EPA's priority attention.

3. Each regulation or related activity that is suggested for review should be accompanied by a short (1-2 page) summary of why it meets the President's criteria and any factual material or analysis that would assist EPA in the review. Supporting materials may be appended. EPA is particularly interested in information concerning economic and environmental effects.

4. The comments most useful to EPA would be those that both (1) identify a specific regulatory burden that can be shown to be unnecessary, for instance, due to changes in the regulatory context or new data or analysis, and (2) include suggestions for achieving the same environmental goal(s) in a less burdensome or more efficient manner.

Program Office Reviews and Public Meetings

The four EPA program offices are at various stages in reviews of several topics. They have also scheduled some meetings to which members of the public are invited. Formal advisory committee meetings listed below also have been or will be announced separately in the Federal Register. These

meetings will focus in whole or in part on the review effort.

As mentioned above, at these meetings EPA hopes to consider any written comments that have been received on the areas being discussed; thus it would be helpful (although not required) if written comments on issues that might be discussed at these meetings are received at least several days before the meetings. There will also be time set aside at these meetings for members of the public to speak.

1. *Office of Air and Radiation.* The Clean Air Act Advisory Committee will meet on Tuesday, March 31, 1992, from 10:30 a.m. to 4 p.m., at the J.W. Marriott Hotel, Pennsylvania Ave. and 14th Street N.W., Washington, DC. For further information contact: Paul Rasmussen (202) 260–7430.

2. *Office of Water.* The Management Advisory Group to the Assistant Administrator for Water will meet on March 9, 10, and 11, 1992, at the Holiday Inn, Interstate 80, Grand island, Nebraska. On March 11, at 10 a.m., a portion of the agenda will be dedicated to two particular topics of discussion under the moratorium: stormwater control and trading discharge allocations between point and nonpoint sources. For further information contact: Michelle Hiller, (202) 260–5554.

3. *Office of Solid Waste and Emergency Response.* The Office has recently received extensive public comment as it conducted reviews of Superfund and Resource Conservation and Recovery Act (RCRA) Implementation. These reviews have suggested a series of areas for reform. In addition, the Office has recently conducted a series of public outreach activities involving affected environmental groups and citizens, regulated industries, states and local governments, research institutions, and other Federal Agencies. Based on these efforts, the Office is focussing during the Spring of 1992 on two areas of reform: Redirecting RCRA towards waste presenting significant risks; and revitalization of Superfund. The Office plans to publish a **Federal Register** notice inviting comment on the first area for reform in April. A public meeting on the second area for reform is planned for late March (details will be announced when they are available). In addition, the Office will hold public meetings and have additional opportunities for public comment as other areas are targeted for reform in the near future. For further information contact: Margaret Schneider (202) 260–4617.

4. *Office of Pesticides, Prevention and Toxic Substances.* The Office plans to take advantage of upcoming meetings of interested groups to solicit public input on actions the Agency is taking and might take to improve its programs. In particular, officials will attend the Pesticide Users Advisory Committee meeting on March 24–25, 1992, and the meeting of the American Association of Pesticide Control Officials on March 16–18, 1992, both in Washington, DC. At these meetings, EPA plans to discuss, among other current issues, incentives to encourage the development and registration of pesticides that may present lower overall risks to human health and the environment than those currently on the market. The Office is also already considering several specific issues in the context of this review: How best to address the risks of lawn care pesticides, chemical inventory exemptions and EPA's Section 8(e) policy on environmental releases under the Toxic Substances Control Act. For further information contact: Judith Nelson (202) 260–2890.

Dated: February 27, 1992.

Richard D. Morgenstern,

Acting Assistant Administrator for Policy, Planning and Evaluation.

Appendix

1. "90-Day Economic Review of Regulations," Memorandum from Administrator William K. Reilly, February 5, 1992.

February 5, 1992.

Memorandum

To: Assistant Administrators, General Counsel, Inspector General, Regional Administrators, Associate Administrators

Subject: 90-Day Economic Review of Regulations

President Bush has asked each federal agency to review its regulations over the next 90 days. I fully support this initiative, for I believe it presents EPA with an opportunity to accelerate the use of innovative, cost-minimizing regulatory approaches and to speed pro-growth activities. It also provides an opportunity to reconsider regulations that unnecessarily impede economic growth. I have directed Dick Morgenstern to lead a 90-day effort to identify specific steps we could take in each of these areas, and to provide an assessment of the economic effects of suggested actions. Your participation and support are critical. All of these actions must be consistent with our statutory mandates and environmental objectives.

While many of EPA's regulations are exempt from the moratorium because of statutory or judicial deadlines (including, I am assured by both Michael Boskin and Boyden Gray, proposals necessary to meet such deadlines), the review should cover the full range of EPA activities. We should first identify those rules or proposals necessary to meet deadlines to ensure they are put into the review process as early as possible. Moreover, we should scrutinize every regulation to assure that expected costs do not exceed expected benefits, and must continue to pursue vigorously the most cost-effective strategies in all our regulatory actions. At the White House meeting on the review, I proposed the following areas in which I expect EPA can implement more cost-effective approaches to achieving environmental objectives:

- Reduce regulatory burdens for small communities and small businesses;
- Increase incentives for the use of clean fuels such as natural gas;
- Reform RCRA (through legislation or regulation—the mixture and derived from rule offers a near-term opportunity);
- Expand market-based approaches to regulations;
- Accelerate inclusionary rulemaking (particularly negotiated rulemakings, or "reg negs");
- Accelerate rules that reduce the regulatory burden on the economy; and
- Strengthen innovative technology development and export promotion efforts.

In addition, we should explore ways to speed biotechnology reforms.

Nothing I have proposed is inconsistent with EPA priorities. In fact, these initiatives promise to advance environmental interests, which is the President's objective, by better integrating our efforts with national economic priorities of promoting jobs, investment and growth. We have already made substantial progress toward furthering economic objectives through instituting regulatory reforms and developing programs that benefit both the economy and the environment, often while increasing energy efficiency. Enduring public support for environmental protection depends on continued efforts to develop and implement the most economically efficient environmental programs.

Dick will develop a strategy for the review in consultation with you. He will follow up with each of you shortly. Given your commitment to developing environmental programs sensitive to economic concerns, I am confident the review will be productive. I have attached, for your review, a memorandum on this subject issued by the President on January 28, 1992.

William K. Reilly.

[FR Doc. 92–5008 Filed 2–28–92; 1:09 pm]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 57, No. 42
Tuesday, March 3, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Current Industrial Reports (Wave II Mandatory).
Form Number(s): Various.
Agency Approval Number: 0607-0395.
Type of Request: Revision of a currently approved collection.
Burden: 22,952 hours.
Number of Respondents: 17,205.
Avg Hours Per Response: 43 minutes.
Needs and Uses: The Current Industrial Reports (CIR) program is a series of monthly, quarterly, and annual surveys which provide key measures of production, shipments, and/or inventories on a national basis for selected manufactured products. Government agencies, business firms, trade associations, and private research and consulting organizations use these data to make trade policy, production, and investment decisions.

This submission uses an abbreviated Supporting Statement to request a revision to one of the surveys in the Wave II Mandatory clearance, as follows, with no change in the current expiration date of the clearance:

MQ35W, "Metalworking Machinery" – We are changing the number of classifications from 191 to 105 and the number of unique reporting cells from 765 to 556 to reduce costs. The changes will also reduce respondent burden to a minor extent.

Affected Public: Businesses or other for-profit organizations.
Frequency: Quarterly.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Agency: Bureau of the Census.
Title: 1992 Economic Censuses – Report of Organization.
Form Number(s): NC-9901.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 48,750 hours.
Number of Respondents: 65,000.
Avg Hours Per Response: 45 minutes.
Needs and Uses: The Census Bureau conducts the report of organization in years ending in 2 and 7 as part of the economic censuses to update and maintain the Standard Statistical Establishment List (SSEL). The SSEL is a computerized list of companies containing such information as name, address, physical location, Standard Industrial Classification (SIC) code, employment size code, and company affiliation. It provides a single universe for the selection and maintenance of statistical samples of establishments, legal entities, or enterprises; provides a standard basis for assigning SIC codes; and provides establishment level data from multi-establishment companies that are summarized and published in the annual County Business Patterns series of reports. The updated SSEL provides a current directory of business locations for use in economic current surveys and economic censuses. The 1992 Economic Censuses – Report of Organization will be used only to obtain basic company affiliation information from establishments not within the scope of the economic censuses (e.g., railroad transportation, colleges, universities, labor unions, and political organizations). In non-census years, the SSEL is updated through the Company Organization Survey (OMB approval number 0607-0444).

Affected Public: Businesses or other for-profit organizations, non-profit institutions, and small businesses or organizations.
Frequency: Every five years.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 27, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-4920 Filed 3-2-92; 8:45 am]

BILLING CODE 3510-07-F

International Trade Administration

[Docket No. A-533-803]

Preliminary Determination of Sales at Less Than Fair Value: Bulk Ibuprofen From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 3, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Paulo F. Mendes, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5055 or (202) 377-5050, respectively.

Preliminary Determination

We preliminarily determine that bulk ibuprofen ("ibuprofen") from India is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (56 FR 42026, August 26, 1991), the following events have occurred.

On September 16, 1991, the U.S. International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that the ibuprofen industry in the United States is materially injured, or threatened with material injury, by reason of imports of ibuprofen from India.

On September 17, 1991, the Department presented its questionnaire to Cheminor Drugs Limited ("Cheminor"), whose sales comprised all imports of ibuprofen from India during the period of investigation

("POI"). The Department received Cheminor's responses to Section A and Sections B and C of the questionnaire on October 11, and November 1, 1991, respectively.

On November 25, 1991, petitioner requested that the Department initiate a cost of production ("COP") investigation. The Department, however, rejected petitioner's COP allegation on December 16, 1991 because it was based on respondent's financial statements, which include figures on products in addition to the subject merchandise.

The petitioner requested an extension of the deadline for the preliminary determination on December 11, 1991. Accordingly, the Department published a notice of postponement on December 27, 1991 (56 FR 67059).

On December 30, 1991, counsel for Cheminor informed the Department that Cheminor would not participate in the antidumping verification.

Petitioner resubmitted its COP allegation on January 13, 1992 (see discussion, below). On February 11, 1992, petitioner submitted additional factual information for purposes of determining the best information available ("BIA").

Scope of Investigation

The product covered by this investigation is bulk ibuprofen from India. Ibuprofen, a white power, is a non-steroidal anti-inflammatory agent which also has analgesic and antipyretic activity. It is used in the symptomatic treatment of acute and chronic rheumatoid arthritis, osteoarthritis, primary dysmenorrhea and for the relief of mild to moderate pain. The chemical description of ibuprofen is 2-(4-isobutylphenyl) propionic acid, $C_{13}H_{18}O_2$. The product covered by this investigation does not include ibuprofen sold in tablet, capsule or similar forms for direct human consumption. Ibuprofen is provided for in the Harmonized Tariff Schedule (HTS) subheading 2916.39.15. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The POI is February 1, 1991, through July 31, 1991.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of BIA is appropriate for Cheminor because it refused verification of its questionnaire responses.

The Department determines what constitutes BIA on a case-specific basis, taking into consideration the information on the record together with the facts and circumstances of each case. Final Determination of Sales at Less Than Fair Value, Personal Word Processors from Japan, ("PWPs from Japan") 56 FR 31103, July 9, 1991. According to 19 CFR 353.37(a), the Department will use BIA when it is unable to verify the accuracy and completeness of the factual information submitted.

In applying BIA, it is customary for the Department to turn to data submitted by the petitioner for an applicable dumping margin. In this investigation, we have turned to the petition for United States price ("USP"), adjusted for U.S. credit, as described in our notice of initiation (56 FR 42026, August 26, 1991). In accordance with the Department's findings in the preliminary determination in the countervailing duty investigation of bulk ibuprofen from India, we added the non-excessive portion of duty exemptions to USP pursuant to section 722(d)(1)(B).

As stated above, the petitioner resubmitted a CPO allegation on January 13, 1992. This allegation was based on an acceptable methodology for showing that home market sales were made below the cost of production. Therefore, because the Department has a reasonable basis to believe that the foreign market value ("FMV") provided in the petition is not accurate, the Department is using the COP alleged in the petitioner's January 13, 1992 submission, inclusive of Indian import duties and the statutory minimum eight percent profit, as the basis for FMV. We are adding the statutory eight percent profit to the COP as BIA instead of the profit alleged by the petitioner in its February 11, 1992 submission. Given that all home market prices in the petition are below the COP, we have no reason to believe that Cheminor's prices are in excess of the statutory minimum.

Based on a comparison of USP and FMV, we calculated an estimated dumping margin of 115.94 percent as BIA.

The above-stated methodology is fully consistent with both lines of Departmental precedent with respect to the use and selection of BIA, i.e., it is both a reasonable estimate of the margin of dumping and an adverse inference. PWPs from Japan, 56 FR 31103, July 9, 1991. The Department is making an adverse inference in this investigation in light of respondent's refusal of verification of its questionnaire responses. Furthermore, we believe that our methodology results in a reasonable estimate of the margin of dumping because, instead of the information which respondent refused to have verified, the Department is relying on the petition and information in support of the petition in accordance with 19 CFR 353.37(b).

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of ibuprofen, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of ibuprofen exceeds the United States price as shown below. The cash deposit rate will be reduced to account for any export subsidies found in the companion countervailing duty investigation. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/Producer/Exporter	Margin percentage
Cheminor drugs limited	115.94
All others	115.94

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring or threaten material injury to a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38(c), case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than April 7, 1992, and rebuttal briefs no later than April 13, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 16, 1992, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to the issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 26, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-4921 Filed 3-3-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Promotion Resources Product User Fees

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The U.S. and Foreign Commercial Service (US&FCS), U.S. Department of Commerce, is extending to May 31, 1992, existing user-fee rates for its Comparison Shopping Service (CSS).

EFFECTIVE DATE: March 3, 1992.

SUPPLEMENTARY INFORMATION: The Comparison Shopping Service provides a custom market survey for a U.S. firm's specific product in a selected country market. A CSS survey covers a single product in a single country market and answers basic questions relating to the marketability of the product, key competitors, comparative prices, customary distribution and promotion practices, trade barriers and other factors. The following current user-fee schedule will remain in effect until May 31, 1992, when an updated user-fee schedule will be published in the **Federal Register.**

USER FEE SCHEDULE FOR THE COMPARISON SHOPPING SERVICE

Algeria	$500
Argentina	1250
Australia	1250
Austria	1500
Belgium	1250
Brazil	750
Canada	1500
Chile	1250
China	1500
Columbia	500
Costa Rica	750
Czech & Slovak Fed. Rep.	1250
Denmark	1250

USER FEE SCHEDULE FOR THE COMPARISON SHOPPING SERVICE—Continued

Dominican Republic	500
Ecuador	750
Egypt	1250
Finland	1500
France	1500
Germany	3000
Greece	1250
Guatemala	750
Honduras	500
Hong Kong	2000
Hungary*	1250
India	1000
Indonesia	500
Ireland	1500
Israel	1000
Italy	2000
Ivory Coast	500
Jamaica	500
Japan	3500
Kenya	1000
Korea	1500
Malaysia	750
Mexico	2000
Morocco	500
Netherlands	1000
New Zealand	1250
Nigeria	750
Norway	1250
Panama	500
Peru	500
Philippines	500
Poland*	1000
Portugal	750
Romania*	750
Saudi Arabia	500
Singapore	1250
South Africa	500
Spain	1000
Sweden	1250
Switzerland	1750
Thailand	1750
Taiwan	1750
Trinidad & Tobago	1000
Turkey	750
United Arab Emirates	500
United Kingdom	1500
C.I.S.* (depending on Republic; excludes The Baltic Republics)	500-4000
Venezuela	1500
Yugoslavia*	1250

*Special conditions apply in some countries. Please check with CSS Product Manager: 202-377-8972.

FOR FURTHER INFORMATION CONTACT: Catherine Mahoney, Manager for Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Telephone (202) 377-8220.

Notice: These prices will remain in effect until May 31, 1992.

Note: Other countries may be added to this list at a later date.

Although the Dapartment of Commerce is not legally required to issue this notice under 15 U.S.C. 1525, this notice is being issued as a matter of general policy.

Authority: 15 U.S.C. 175 and 15 U.S.C. 1525.

Dated: February 25, 1992.

Susan C. Schwab,

Assistant Secretary and Director General of the U.S. and Foreign Commercial Service.

[FR Doc. 92-4833 Filed 3-2-92; 8:45 am]

BILLING CODE 3510-FP-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Comprehensive Data Gathering Committee (Committee) will hold a public meeting on March 3, 1992, from 11 a.m. to 5 p.m. and reconvene on March 4, 1992, from 8 a.m. to 4 p.m. The meeting will be held in the conference room of the Pacific States Marine Fisheries Commission, 2501 SW. First Avenue, Portland, Oregon.

The Committee will draft a report on the need for a program to gather fishery data from vessels at sea as well as data that can be obtained when vessels return to port. The Committee will also prepare a draft of potential alternative programs for the Council to consider along with costs and funding sources. The report will be reviewed by industry and management agency representatives prior to submission to the Council at its upcoming April 6-10 meeting in San Francisco, California.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, Oregon 97201; telephone: (503) 326-6352.

Dated: February 26, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Convservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4831 Filed 3-2-92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council (Council) will hold its 76th public meeting on March 13-17, 1992. The Council's Standing Committee on Fishery Rights of Indigenous People will meet on March 13 at 2:30 p.m., in the Hawaii Department of Land and Natural Resources Boardroom (DLNRB). The rest of the Council's Standing Committees

will meet on March 14 beginning at 9 a.m., in the Hawaii DLNRB.

The full Council will meet on March 16–17, beginning at 9 a.m., each day, in the Ala Mona Hotel, Hibiscus Ballrooms, 410 Atkinson Drive, Honolulu, HI.

Draft Agenda

Reports from the islands, fishery agencies and organizations, on domestic and foreign fishing enforcement; and on fishery management plans. Committees will consider the following items.

Crustaceans

(1) Discussion of recommendations regarding alteration of management strategy; (2) including opening Laysan Island to fishing; (3) individual quotas, separate species quotas; and (4) if appropriate, decision-making.

Bottomfish

(1) Status reports of Federal permits.

Pelagics

(1) Discussion of longline permits and reporting; (2) longline moratorium and 3 year data plan; (3) allowing vessels fishing exclusively outside the EEZ to land fish in Hawaii; (4) longline area closures, including possible modifications of area closures; Note: the public comment period for this topic will constitute the public hearing portion of the rulemaking process); (5) request for moratorium/limited entry program in tuna handline fishery; and (6) decision-making, if appropriate.

Program Planning

(1) Discussion of mandatory reporting of catch and effort by all user groups catching Pelagic Management Unit Species and (2) decision-making, if appropriate.

FISHERY RIGHTS OF INDIGENOUS PEOPLE

(1) Discussion of indigenous rights Amendment to Pelagics Fishery Management Plan.

Other

(1) Administrative matters, (2) other business. For more information contact Kitty M. Simonds, Executive Director, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: February 26, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Services.

[FR Doc. 92–4830 Filed 3–2–92; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposed Amendments Relating to the Calculation of the Cash Settlement Price for the Feeder Cattle Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted proposed amendments to its feeder cattle futures contract that would: (1) Reduce the size of the geographic region from which cash prices are collected for purposes of calculating the cash settlement price; (2) reduce the weight range of feeder steers for which the cash prices underlying the cash settlement price are collected; (3) specify the frame and muscling characteristics of those feeder steers for which cash prices are eligible to be used in calculating the cash settlement price; (4) change the cash settlement price's calculation procedures to privide for a fully weighted average cash settlement price with the price of each transaction being weighted by the weight of the feeder steers included the transaction; (5) replace Cattle Fax, Inc. with the Agricultural Marketing Service of the U.S. Department of Agriculture (USDA–AMS) as the organization responsible for collecting the cash prices underlying the cash settlement price; and (6) increase to 50,000 from 44,000 pounds the futures contract's trading unit. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before April 2, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the proposed amendments to the cash settlement provisions of the CME feeder cattle futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The existing cash settlement provisions of the feeder cattle futures contract provide that at the expiration of trading in a contract month all open positions in that month shall be cash settled based on the Cattle Fax U.S. Feeder Steer Price (USFSP) for 600 to 800 pound steers which would be expected to grade USDA choice when fed to slaughter. The feeder cattle futures contract currently specifies that the Cattle Fax USFSP is an average of the cash prices reported to Cattle Fax from all auction and direct sale transactions occurring over a seven-day period in 27 specified states, which consist of all contiguous states west of the Mississippi River except Minnesota, plus six southern and Gulf Coast states east of the Mississippi River.

The Cattle Fax USFSP currently is determined by initially calculating for each state a seven-day state auction price and a seven-day state direct sale price.[1] The seven-day state auction price is obtained by calculating for each auction the simple average of the midpoints of the mostly price ranges for 600 to 700 pound steers and 700 to 800 pound steers.[2] An average auction price for each state is then calculated from these simple average prices, with each auction's simple average price weighted by that auction's share of the respective state's 600 to 800 polund steer trade volume.

The seven-day state direct sale price is determined by first calculating for each state a weighted average direct sale price for steers weighing between 600 and 700 pounds and a weighted average direct sale price for steers weighing between 700 and 800 pounds, with the price of each direct sale transaction being weighted by that transaction's share of the state's direct sale volume for the 600 to 700 and 700 to 800 pound weight categories. The seven-day state direct sale price is then found by calculating a simple average of these weighted average direct sale prices for the 600 to 700 pound and 700 to 800 pound catiegories.

Following completion of the above calculation steps, a seven-day state

[1] Certain of the twenty-seven states are grouped together for data collection purposes (see footnote 3 below).

[2] The mostly price range is defined as the price range in which the majority of the cattle within the specified weight range were sold. In addition, each sale day at an auction is considered to be a separate auction.

auction/direct sale price is computed for each state by calculating a volume-weighted average of the seven-day auction price and the seven-day direct sale price, using the relative shares of total steer volume in each state attributable to auction and direct sales volumes, respectively, as weights. Next, regional prices are calculated for each of four regions by computing a simple average of the seven-day state auction/direct sale prices for all states included in a particular region.[3] In the final step, the Cattle Fax USFSP is calculated by summing each of the regional prices weighted by the region's share of the total beef cow inventory reported by the USDA for January 1 of each year for all 27 states combined.

Under the proposed amendments, the Cattle Fax USFSP would be replaced by the CME Composite Weighted Average Price as the cash settlement price for the feeder cattle futures contract. The CME Composite Weighted Average Price would be based on a sample of auction, direct sale and video transactions reported by the Federal-State Market News Service of the USDA–AMS. The sample would be selected from transactions reported on the USDA wire for 700 to 799 pound Medium Frame #1 and Medium and Large Frame #1 feeder steers in 12 contiguous states primarily located in the western and southwestern areas of the U.S.[4] The sample of transactions would be limited to those transactions for which the Federal Market News Service reports the number of head, the weighted average weight and the weighted average price.

The calculation procedures for the proposed cash settlement price would use cash prices quoted for four weight/frame score categories: 700 to 749 pound Medium frame #1 feeder steers; 750 to 799 pound Medium frame #1 feeder steers; 700 to 749 pound Medium and Large frame #1 feeder steers; and 750 to 799 pound Medium and Large frame #1 steers. In the first step, the total number of pounds of feeder steers sold and the total dollar value of the feeder steers sold would be calculated for each of the four weight/frame score categories in each auction, direct trade, or video sale report of the Federal-State Market News Service/[5] The second step of the calculation process would sum the weights and dollar values derived in step one for each weight/frame score category to determine the total number of pounds and the total dollar value of feeder steers sold in all of the four weight/frame score categories combined for each auction, direct trade, or video sale report. In the third step, the results of step two would be used to calculate the total number of pounds and the total dollar value of the feeder steers sold in all of the weight/frame score categories for all Federal-State Market News Service Reports occurring within the 12-state region during the seven-day period. In the final step, the proposed cash settlement price is computed by dividing the total dollar value of feeder steers sold in the 12-state region during the seven-day period by the total number of pounds of feeder steers sold in the 12-state region during the seven-day period.

The proposed amendments also will increase to 50,000 from 44,000 pounds the size of the feeder cattle futures contract.

The CME proposed to apply the proposed amendments to all newly listed contract months following its receipt of Commission approval.

According to the CME, the proposed amendments are needed because they will make the terms of the contract more consistent with current cash market practices. The CME believes that the proposals also will lead to a more accurate, more representative and less manipulable cash settlement index which is based on a more homogeneous pool of feeder cattle. In this respect, the CME submits that narrowing the weight range of feeder steers will base the cash settlement price on a more uniform type of cattle and reduce the weight-related price variation in the cash settlement price. The CME also believes that the proposal to reduce the area from which cash prices are drawn to the above-noted 12 states will provide a more uniform and representative sample of the feeder cattle sold through normal cash market channels in an area where most of the nation's cash feeder cattle are traded.

In addition, the CME believes that, by using as the cash settlement price an easily verifiable weighted average price calculated from publicly reported cash market data, there will be increased public confidence in the cash settlement index and the feeder cattle futures contract. The CME further submits that the proposal to use a true weighted average price for cash settlement purposes will result in a more equitable and economically valid cash settlement price that will better reflect the actual numbers, weights and prices of feeder cattle sold during cash settlement periods.

Finally, the CME said that the proposal to increase the contract's size will better reflect the lot size of typical cash market transactions and improve the hedging utility of the contract.

The Commission is specifically requesting comments with respect to whether the proposed amendments will continue to provide for a cash settlement price which reflects the underlying feeder cattle cash market and which will not be conducive to price manipulation or distortion. In addition, the Commission is seeking comment on the extent to which the revised cash settlement price will be a reliable and acceptable measure of the cash market value of feeder cattle.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the CME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at

[3] The calculation procedures for the existing cash settlement price divide the 27 states included in Cattle Fax's survey into four regional groupings: The West (Arizona/New Mexico, Nevada/Utah/California, Washington, Oregon and Idaho); the North (Iowa, Montana, Wyoming, and North Dakota/South Dakota); Central (Nebraska, Colorado, Kansas, Oklahoma, Texas and Missouri); and the Southeast (Tennessee/Kentucky, Louisiana/Mississippi, Arkansas, Alabama/Florida and Georgia). The auction and direct sale prices for those states cited above that are joined by slash marks (/) are combined and treated as a single state under existing Cattle Fas USFSP calculation procedures for purposes of computing the seven-day state auction and direct sale prices.

[4] The proposed cash settlement price will be calculated from feeder steer cash prices reported for transactions occurring in Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming. The proposed amendments also stipulate that feeder steers identified as having excessive flesh or fill, or otherwise differing from the norm, are excluded from the sample of transactions used to compute the proposed cash settlement price. In addition, direct sales and video transactions must be quoted on an FOB basis, with a three percent standing shrink or equivalent allowance, and with pickup within 14 days.

[5] Under the proposed calculation procedures, the number of head and the corresponding weighted average weight stated in a particular Federal-State Market News Service report are multiplied together to derive the total number of pounds of feeder steers sold in a particular weight/frame score category for that report. The total dollar value of feeder steers sold for a given weight/frame score category for a particular Federal-State Market News Service report would be calculated by multiplying the total number of pounds of feeder steers sold, as derived above, by the corresponding weighted average price for that weight/frame score category for that report.

the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC on February 27, 1992.

Gerald Gay,

Director

[FR Doc. 92-4904 Filed 3-2-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Secretary of Defense

Ada Board; Meeting

ACTION: Notice of meeting.

SUMMARY: A meeting of the Ada Board will be held Monday and Tuesday, March 23-24, 1992 from 9 a.m. to 5 p.m. at the Institute for Defense Analyses, 2001 N. Beauregard St., Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Carlson, Ada Information Clearinghouse c/o IIT Research Institute, 4600 Forbes Boulevard, Lanham, Maryland 20706, (703) 685-1477.

Dated: February 27, 1992.

L.M. Bynum,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

[FR Doc. 92-4872 Filed 3-2-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management; Approval Procedures for Use of Foreign Flag Ocean and/or Air Carriers to Move International Household Goods and Unaccompanied Baggage Shipments

AGENCY: Military Traffic Management Command, DoD.

ACTION: Advance notice of proposed modification of procedures concerning approval for use of foreign flag ocean and/or air carriers to move international household goods and unaccompanied baggage shipments.

SUMMARY: The Military Traffic Management Command (MTMC) proposes to modify the procedures established in DoD Regulations 4500.34-R, Personal Property Traffic Management Regulation dated October 1991, by which carriers request approval to use foreign flag ocean or air service and process foreign flag certifications. This modification will require carriers to prepare electronic submissions (message or facsimile) and require the Military Airlift Command (MAC) (will become the Air Mobility Command (AMC) on 1 June 1992) or the Military Sealift Command (MSC) to respond via similar electronic means within an established time frame. Upon implementation of this modification, corresponding changes will be made to the International Personal Property Rate Solicitation, I-2.

DATES: Comments must be received on or before 31 March 1992.

ADDRESSES: Mail comments to: Commander, Military Traffic Management Command, ATTN: MTPP-CI, (Ms. Collier), 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms. Gail Collier, (703) 756-2397 or the address above.

SUPPLEMENTARY INFORMATION: a. The purpose of this change is to ensure compliance with the statutory requirements concerning the use of foreign flag vessels and aircraft for the movement of DoD sponsored personnel property shipments. These changes will require that carriers obtain a justification certificate as described above if any segment of the routing involves a foreign flag carrier prior to booking shipments. This will also ensure that appropriate documentation is available for paying finance centers to process carrier payment vouchers. The AMC and MSC have reviewed and concur in the proposed procedures.

b. Pursuant to the authority of DOD Directive 4500.34, the following are proposed changes to the Personal Property Traffic Management Regulation, DOD 4500.34-R, appendix A, Tender of Service:

1. Part II B International Paragraph 33a. No change.

2. Paragraph 33b will read: "Request permission from Headquarters, Air Mobility Command (AMC), ATTN: XON, Scott AFB, IL 62225-50001, to use aircraft of foreign registry when I determine that the use of an air carrier of United States registry is not available and I have fully complied with provisions of the Fly American Act. If any segment of the intended routing involves use of a foreign flag carrier, a justification certificate is required, and approval will be obtained prior to booking of shipment with the air carrier. The request for authorization to use a foreign flag carrier will be accomplished and submitted to HQ AMC by electronic means (message of FAX) within no more than 10 calendar days of pickup, but, in any case, no later than 2 full working days prior to booking of the shipment with the foreign flag carrier. The electronic transmission will consist of the following: Justification Certificate for use of Foreign Flag Carrier (figure A-5) and a copy of the personal property Government Bill of Lading (PPGBL) for shipments to or from controlled rate areas; or Justification Certificate for use of Foreign Flag Carrier and a copy of the MTMC award message if shipment is for a one-time-only (OTO) movement to or from an uncontrolled rate area. Upon review and concurrence/nonconcurrence, HQ AMC will respond by similar electronic means to the carrier within 2 full working days of the receipt of the carrier's request. A copy of this authorization will be provided to HQ MTMC, ATTN: MTPP-CI."

3. Paragraph 33c. No change.

4. Paragraph 33d will read: "Request permission from the cognizant Military Sealift Command (MSC) area/sub-area command to use a vessel of foreign registry when I determine that the use of a vessel of United States registry will not provide the required service. If any segment of the intended routing involves use of a foreign flag vessel, a justification certificate is required, and approval will be obtained prior to booking of shipment with the ocean carrier. The request for authorization to use a foreign flag carrier will be accomplished and submitted to HQ MSC area/sub-area command by electronic means (message or FAX) within no more than 10 calendar days of pickup, but in any case, no later than 2 full working days prior to booking of the shipment with the foreign flag carrier. The electronic transmission will consist of the following: Justification Certificate for use of Foreign Flag Carrier (figure A-6) and a copy of the PPGBL for shipments to or from controlled rate areas; or Justification Certificate for use of Foreign Flag Carrier and a copy of the MTMC award message if shipment is for OTO movement. Upon review and concurrence/nonconcurrence, HQ MSC will respond by similar electronic means to the carrier within 2 full working days of the receipt of the carrier's request. A copy of this concurrence/nonconcurrence will be provided to HQ MTMC, ATTN: MTPP-CI."

c. Figures A-5 and A-6 to Appendix A have been modified to accommodate these requirements and to establish control numbers for monitoring foreign flag certifications. Copies of the modified formats can be obtained by

contacting Ms. Gail Collier at HQ MTMC, (703) 756–2397.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–4805 Filed 3–2–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: March 12, 1992, 9 a.m.–4 p.m. and March 13, 1992, 9 a.m.–Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Suellen Mauchamer, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400E, Washington, DC 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Swearing in new members
- Role of the Advisory Council
- Alternatives for Leveraging NCES Resources
- Integrated Longitudinal Studies Program
- Council Business.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW, room 400E, Washington, DC 20208–7575.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92–4908 Filed 3–2–92; 8:45 am]

BILLING CODE 4000–01–M

Recognition of Accrediting Agencies, State Agencies for Approval of Public Postsecondary Vocational Education, and State Agencies for Approval of Nurse Education

AGENCY: Department of Education.

ACTION: Request for comments on agencies applying to the Secretary for initial recognition or renewal of recognition.

DATES: Commenters should submit their written comments by March 20, 1992 at the address below.

FOR FURTHER INFORMATION CONTACT: Karen Kershenstein, Chief, Accrediting Agency Evaluation Branch, Higher Education Management Services, U.S. Department of Education, 400 Maryland Avenue, SW. (room 3036 ROB–3), Washington, DC 20202–5171, Telephone: (202) 708–7417.

SUBMISSION OF THIRD-PARTY COMMENTS: The Secretary of Education recognizes accredting agencies and State approval agencies for public postsecondary vocational eduction and nurse education that are reliable authorities as to the quality of training or education offered by institutions within their scope of operation. The purpose of this notice is to invite interested third parties to present written comments on the agencies listed in this notice that have petitioned for initial or continued recognition or that have submitted interim reports in response to the Secretary's request.

Written comments will be considered by the Secretary and by the National Advisory Committee on Accreditation and Institutional Eligibility, which advises the Secretary of Education on the recognition of accrediting agencies, during its meeting May 4–6, 1992.

The following agencies have applied:

Nationally Recognized Accrediting Agencies and Associations

Petition for Initial Recognition

1. Association of Collegiate Business Schools and Programs (baccalaureate and master's degree programs in business administratrion and management, and baccalaureate and master's degree programs in accounting).

Petitions for Renewal of Recognition

1. Accrediting Council for Continuing Education and Training, Accrediting Commission (non-collegiate continuing education institutions and programs).

2. American Academy of Microbiology, Committee on Postdoctoral Educational Programs (postdoctoral programs in medical and public laboratory microbiology).

3. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools).

4. American Optometric Association, Council on Optometric Education (professional degree programs, residency programs, and optometric technician programs).

5. American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, school and combined professional-scientific psychology, and predoctoral internship programs in professional psychology).

6. American Veterinary Medical Association, Council on Education (colleges of veterinary medicine offering programs leading to a professional degree, and two-year collegiate programs for veterinary technicians).

7. American Veterinary Medical Association, Committee on Veterinary Technician Activities and Training (associate degree and programs of at least two years in basic education for veterinary technicians).

8. Commission on Opticianry Accreditation (two-year programs for the ophthalmic dispenser and one-year programs for the ophthalmic laboratory technician).

9. Society of American Foresters (programs leading to a bachelor's or higher first professional degree).

10. New England Association of Schools and Colleges (postsecondary institutions located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

11. North Central Association of Colleges and Schools, Commission on Institutions of Higher Education (postsecondary institutions located in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missiouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming).

12. North Central Association of Colleges and Schools, Commission on Schools (institutions offering postsecondary adult vocational education programs located in Arizona, Arkansas, Colorado, Illinois, Indiana,

Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming).

13. Northwest Association of Schools and Colleges, Commission on Colleges (postsecondary institutions located in Alaska, Idaho, Montana, Nevada, Oregon, Utah, Washington).

14. Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges (community and junior colleges located in California, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Marianas).

Interim Reports

1. American Council for Construction Education.

2. Middle States Association of Colleges and Schools, Commission on Secondary Schools.

State Approval Agencies for Vocational Education

Petitions for Renewal of Recognition

1. Kansas State Board of Eduction.

2. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational Technical Education Institutions and Programs.

Interim Reports

1. Minnesota State Board of Vocational Technical Education.

2. Washington State Board for Community and Technical Colleges.

State Approval Agency for Nurse Education

Petition for Renewal of Recognition

1. Montana State Board of Nursing.

PUBLIC INSPECTION OF PETITIONS AND THIRD PARTY COMMENTS: All petitions and interim reports, and those third party comments received in advance of the meeting, will be available for public inspection at the U.S. Department of Education, ROB-3, room 3036, 7th and D Streets, SW., Washington, DC 20202-5171. Telephone (202) 708-7417 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, Eastern time. Deaf and hearing impaired individuals may call: The Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: February 25, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92-4892 Filed 3-2-92, 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Petroleum Supply Reporting System (PSRS) Forms

AGENCY: Energy Information Administration (EIA), Department of Energy.

ACTION: Solicitation of comments concerning proposed changes to the Petroleum Supply Reporting System (PSRS) Forms.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. § 3501 et seq.), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this notice is to inform interested parties of the proposed changes to the PSRS froms and to solicit comments. These changes are designed to meet the revised Clean Air Act of 1990 requirements and to reflect current and regional petroleum supply activity.

DATES: Written comments must be submitted on or before April 2, 1992. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to: Ms. Susan Harris (EI-421), Energy Information Administration, U.S. Department of Energy, Mail Stop: 2H-058, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-8384, FAX: (202) 586-5846.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the form(s) and instructions should be directed to Ms. Harris at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No 93-275) and the Department of Energy Organization Act (Pub. L. 95-91), the EIA is obliged to carry out a central, comprehensive, and unified energy data and information program. Under this program, EIA will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, production, demand, and technology, as well as, related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA is obliged to publish and otherwise make available to the public, high-quality statistical data that reflect current and regional petroleum supply activity. The Clean Air Act (CAA), as amended (42 U.S.C. 7410 et seq.), has been further amended by Public Law 101-549, enacted on November 15, 1990. Section 219 of the 1990 amendment adds subsection (k) to section 211 of the CAA. Subsection (k) provides in 6(B) thereunder, that the Environmental Protection Agency Administrator, after consultation with the Secretary of Energy, will determine if there is sufficient domestic capacity to produce certified motor gasoline to meet the CAA requirement and act in accordance with that determination as the law allows. To help the EIA Administrator meet these responsibilities, as well as internal Department of Energy requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass each significant primary petroleum supply activity in the United States.

II. Current Actions

In keeping with the DOE's mandated responsibilities, the EIA proposes changes in the following data collection forms. These changes are designed to accommodate the revisions to the Clean Air Act of 1990, and to reflect current and upcoming changes in the petroleum industry.

1. Forms EIA-800 (Weekly Refinery Report), EIA-801 (Weekly Bulk Terminal Stocks Report), EIA-802 (Weekly Product Pipeline Report), EIA-804 (Weekly Imports Report):

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (>2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993.

The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

c. On the Form EIA–800, kerosene-type jet fuel has been split into two categories (military and commerical). Only net production data will be collected.

2. Form EIA–803 (Weekly Crude Oil Stocks Report): Data elements and instructions are unchanged.

3. Form EIA–806 (Weekly Crude Watch Telephone Report): Data elements and instructions are unchanged.

4. Form EIA–807 (Propane Telephone Report): Data elements and instructions are unchanged.

5. Form EIA–810 (Monthly Refinery Report):

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

c. Other hydrocarbons, hydrogen, and alcohol (Code 090) has been renamed "Other hydrocarbons, hydrogen, and oxygenates."

d. A new line has been added to report Other hydrocarbons and hydrogen separately.

e. Data on inputs and end-of-month stocks of oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

f. Reporting of "inputs" from natural gas processing plants for ethane (code 110) and propane (code 231) will be eliminated since most refiners do not receive these products from natural gas processing plants.

g. Inputs and production of Isobutylene (Code 634) as a sub-category to Isobutane (Code 615) will be collected.

h. Inputs of unfinished oils sub-categories (i.e., naphthas and lighter, kerosene and light gas oils, heavy gas oils, and residuum) will be collected.

i. Data on inputs and production of military kerosene-type jet fuel and commercial kerosene-type jet fuel will be collected.

6. Form EIA–811 (Monthly Bulk Terminal Report):

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

c. Data on end-of-month stocks of oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

d. Liquefied Petroleum and Refinery Gases headings for Ethane, Propane, Normal Butane, and Isobutane have been revised to include olefins (e.g., Ethane/Ethylene etc.)

7. Form EIA–812 (Monthly Product Pipeline Report):

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

c. Data on end-of-month stocks of oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

8. Form EIA–813 (Monthly Crude Oil Stocks Report): Data elements and instructions are unchanged.

9. Form EIA–814 (Monthly Imports Report):

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories for both domestic and bonded to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

c. Data on oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

d. Data on olefins will be collected separately from liquefied petroleum gases (i.e., ethylene, propylene, butylene, and isobutylene).

10. Form EIA–816 (Monthly Natural Gas Liquids Report): Data elements and instructions are unchanged.

11. Form EIA–817 (Monthly Tanker and Barge Movement Report)

a. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

b. Distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

12. Form EIA–818 (Monthly International Energy Agency Imports/ Stocks-At-Sea Report):

a. Schedules B and C have been consolidated.

b. Motor gasoline categories have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (> 2.0% spec.), and conventional gasoline.

c. Distillate Fuel Oil has been split into two sulfur categories for both domestic and bonded to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

d. Data on oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

e. Data on olefins will be collected separately from liquefied petroleum gases (i.e., ethylene, propylene, butylene, and isobutylene).

13. Form EIA–819M (Monthly Oxygenate Telephone Report): The form designation has been changed from EIA–819. Data elements and instructions are unchanged.

14. Form EIA–819A (Annual Oxygenate Report): This is a new annual data collection proposed to collect production capacity and storage capacity of oxygenates.

15. Form EIA–820 (Annual Refinery Report):

a. Barrels per calendar day downstream charge capacity will be collected for fluid coking, delayed coking, fresh feed catalytic cracking, and catalytic hydrocracking.

b. Motor gasoline categories for stoage capacity have been revised to reflect the change in the type of fuels produced. The new categories are: Reformulated gasoline, oxygenated gasoline (>2.0% spec.), and conventional gasoline.

c. Storage capacity data on oxygenates (i.e., fuel ethanol, ETBE, Methanol, MTBE, TAME, TBA, and other oxygenates) will be collected.

d. Storage capacity data for distillate Fuel Oil has been split into two sulfur categories to meet EPA requirements effective in October 1993. The new categories are: 0.05% sulfur and under, and greater than 0.05% sulfur.

16. Form EIA–822A–D (Oxygenate Operations Identification Survey): This is a frame identifier survey to provide frames maintenance for the Form EIA–819M.

17. Form EIA–825 (Petroleum Operator Identification Survey): Data elements and instructions are unchanged.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed changes. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

As a potential respondent:

1. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

2. Can the data be submitted using the definitions included in the instructions?

3. Can the data be submitted in accordance with the response time specified in the instructions?

4. Public reporting burden for this collection is estimated to average per submission: EIA–800—1 hour; EIA–801—30 minutes; EIA–802—30 minutes; EIA–803—30 minutes; EIA–804—1 hour; EIA–807—30 minutes; EIA–810—3 hours 15 minutes; EIA–811—1 hours 30 minutes; EIA–812—2 hours; EIA–813—1 hour 30 minutes; EIA–814—2 hours; EIA–816—45 minutes; EIA–817—1 hour 30 minutes; EIA–818—3 hours; EIA–819M—30 minutes; EIA–819A—30 minutes; EIA–820—2 hours: EIA–822A–D—4 hours; EIA–825—30 minutes. How many hours, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, will it take your firm to change from current reporting procedures to the proposed procedures?

5. Estimate the initial cost of modifying your systems to be able to respond to the revised forms, including direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

6. Do you agree with each of the proposed changes? Are there additional changes that you would recommend?

7. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a data user:

1. Do you need data at the levels of aggregation that would be available using the modified (new) forms; that is do the products, frequency, market categories and geography reflect your needs?

2. Do you need any of the elements of information that would be eliminated by this proposal?

3. How could the forms be improved to better meet your specific data needs?

4. For what purpose would you use the date? Be specific.

5. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the PSRS collections.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the forms and will become a matter of public record.

Statutory Authority: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. No. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. subsection 764(1), 764(b), and 790a.

Issued in Washington, DC, February 25, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–4916 Filed 3–2–92; 8:45 am]

BILLING CODE 6450–01–M

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meetings:

NAME: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee.

DATE AND TIME: Thursday, March 19, 9:30 a.m.–5:30 p.m. Friday, March 20, 9 a.m.–12:30 p.m.

PLACE: Holiday Inn-Capitol, 550 C Street SW., Washington, DC.

CONTACT: Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI–72, Washington, DC 20585. Telephone: (202) 254–5507.

PURPOSE OF COMMITTEE: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, March 19, 1992

A. Opening Remarks
B. Major Topics
1. A Case Study of the Applicability of Latin Hypercube Design Principles
2. U.S. Oil and Gas Upstream Indices
3. Training at EIA (Public Comment)

Friday, March 20, 1992

4. Demand Side Management
5. Defining Efficiency
6. Followup on Sampling Issues (Public Comments)

C. Topics for Future Meetings

PUBLIC PARTICIPATION: The meeting is open to the public. The chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above or Ms. April Young at (202) 254–5380.

TRANSCRIPTS: Available for public review and copying at the Public Reading Room, (Room 1E–290), 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6025, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC., on February 26, 1992.

Marcia L. Morris,

Deputy Advisory Committee, Management Officer.

[FR Doc. 92–4915 Filed 3–2–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER92–308–000, et al.]

Philadelphia Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Cmmission:

1. Philadelphia Electric Company

[Docket No. ER92–308–000]

February 20, 1992.

Take notice that on February 3, 1992, the Signatories to the Extra High Voltage Transmission System (EHV) Agreement tendered for filing a request for authority to designate the Philadelphia Electric Company representative on the EHV Administrative Committee to file the EHV Agreement or changes thereto on behalf of the Signatories.

Comment date: March 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Montaup Electric Company

[Docket No. ER91-300-001]

February 20, 1992.

Take notice that on January 22, 1992, Montaup Electric Company (Montaup) tendered for filing its refund report in the above-referenced docket.

Comment date: March 5, 1992, in accordance with Standard Paragraph E end of this notice.

3. Appalachian Power Company

[Docket No. ER92-324-000]

February 20, 1992.

Take notice that Appalachian Power Company (APCo) on February 14, 1992 tendered for filing proposed changes in its Electric Service Rate Schedule FPC No. 23 for service to Kingsport Power Company (Kingsport). The proposed rate changes would increase annual revenues from Kingsport by $3,933,170, over rates currently being collected by APCo, subject to refund, based upon the twelve-month period ending December 31, 1992. APCo purposes that the rates and charges which are revised by this filing become effective April 15, 1992.

The proposed rate schedule changes are designed to reflect general increases in the costs of providing electric service.

Copies of the filing were served upon Kingsport Power Company and the Tennessee Public Service Commission.

Comment date: March 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Appalachian Power Company

[Docket No. ER92-323-000]

February 20, 1992.

Take notice that Appalachian Power Company (APCo) on February 14, 1992 tendered for filing proposed changes in its F.E.R.C. Rate Schedules for service to its twenty-four wholesale customers in the States of Virginia and West Virginia. The proposed rate changes would increase annual revenues from those twenty-four jurisdictional customers by $4,758,768, over rates currently being collected by APCo, subject to refund, based upon the twelve-month period ending December 31, 1992. APCo propose that the rates and charges which are revised by this filing become effective April 15, 1992.

The proposed rate schedule changes are designed to reflect general increases in the cost of providing electric service.

Copies of the filing were served upon APCo's jurisdictional customers, the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Comment date: March 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. BIT Manufacturing, Inc.

[Docket No. QF92-48-000]

February 20, 1992.

On February 11, 1992, BIT Manufacturing, Inc. (Applicant), of State Highway 68, Copperhill, Tennessee 37317, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The cogeneration facility is located in Polk County, Tennessee, and consists of an extraction steam turbine generator. Thermal energy recovered from the facility is used for chemical process use. The primary energy source is the burning of elemental sulfur to produce sulfuric acid and liquid sulfur dioxide. The electric power production capacity of the facility is 24 MW. The facility was installed in 1971 with new commercial operation scheduled for March, 1992.

Comment date: On or before April 2, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Electric Company

[Docket No. ER92-197-000]

February 24, 1992.

Take notice that on February 14, 1992, Commonwealth Electric Company submitted additional information in support of its November 21, 1991, filing of a change to Supplement No. 18 of its currently effective Rate Schedule FERC No. 6. The Commission noticed the filing on December 5, 1991. The additional information concerns the status of the 115 KV wheeling service included in Rate Schedule FERC No. 6, which has never been implemented.

Comment date: March 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Public Service Company

[Docket No. ER91-684-000]

February 24, 1992.

Take notice that on February 14, 1992, Iowa Public Service Company (IPS) tendered for filing a third amendment to the filing of an executed Transmission Interconnection and Interchange Agreement between IPS and Nebraska Public Power District (NPPD).

IPS indicates that the Interconnection and Interchanged Agreement reflects the establishment of a transmission interconnection between the two systems. NPPD will pay IPS a facilities charge based on transmission line investment. This third amendment provides additional cost support for the transmission facilities charge.

IPS respectfully requests a waiver of the Commission's rules so that the Interconnection and Interchange Agreement may be approved retroactive to December 29, 1986.

IPS states that copies of this filing were served on NPPD and the Iowa Utilities Board.

Comment date: March 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Buck Mickel

[Docket No. ID-2675-000]

February 24, 1992.

Take notice that on February 14, 1992, Buck Mickel filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Duke Power Company
Director—NationsBank Corporation

Comment date: March 11, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Public Works Commission of the City of Fayetteville, North Carolina v. Carolina Power & Light Company

[Docket No. EL92-19-000]

February 24, 1992.

Take notice that on February 14, 1992, the Public Works Commission of the City of Fayetteville, North Carolina (Fayetteville) tendered for filing a Complaint against Carolina Power & Light Company (CP&L), requesting the Commission to determine whether CP&L has correctly totalized billing units for Fayetteville under CP&L's of its Service Agreement with Fayetteville and its applicable Resale Service Schedule. Fayetteville seeks a refund of a claimed overcharge together with accrued interest in connection with CP&L's alleged failure to totalize billing correctly under formerly effective Resale Service Schedule RS87-3B. Fayetteville claims CP&L's failure to totalize billing demand units was contrary to the Service Agreements CP&L's applicable Resale Service Schedule, and CP&L's applicable Terms and Conditions of Service, was contrary to the intent of the parties in entering into and amending their Service Agreement, was an unauthorized change in practice by CP&L and was unjust and unreasonable. In addition, Fayetteville seeks an order from the Commission requiring CP&L to totalize billing units for electricity of all Fayetteville's present and future delivery points.

Comment date: March 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corporation

[Docket No. ER91-584-000]

February 24, 1992.

Take notice that Central Vermont Public Service Corporation (CVPS) on February 14, 1992, tendered for filing an amendment to its August 9, 1992 filing in this docket.

CVPS requests the Commission to waive its notice of filing requirements to permit the rte schedule to become effective according to the terms of the Agreements.

Comment date: March 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. MDU Resources Group, Inc.

[Docket No. ER92-30-000]

February 24, 1992.

Take notice that on February 14, 1992, MDU Resources Group, Inc. (MDU) filed an application with the Federal Energy Regulatory Commission under 204 of the Federal Power Act Requesting authority to issue not more than $150 million of one or more series of its First Mortgage Bonds and/or of secured medium term notes. MDU also requests exemption from the Commission's competitive bidding regulations.

Comment date: March 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Electric Power Company

[Docket No. ER92-325-000]

February 24, 1992.

Take notice that on February 18, 1992, Maine Electric Power Company (MEPCO) tendered for filing the following: Transmission Service Agreement between Maine Electric Power Company and Main Public Service Company, dated Februry 4, 1992.

MEPCO has requested waiver of the Commission's notice and filing requirements to the extent necessary to permit the Transmission Service Agreement to become effective April 22, 1992, which is more than 120-days prior to the date on which electric service is to commence.

MEPCO has served a copy of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: March 10, 1992, in accordance with Standard Paragraph E end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Strteet, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4819 Filed 3-2-92, 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-117-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 25, 1992.

Take notice that Northern Natural Gas Company (Northern) on February 21, 1992, tendered for filing to become part of Northern's F.E.R.C. Gas Tariff Third Revised Volume 1, the following tariff sheets, to be effective June 1, 1992.

Twenty-Fourth Revised Sheet No. 4H
Third Revised Sheet No. 52C
Fourth Revised Sheet No. 52G.2
Fourth Revised Sheet No. 52G.3
Third Revised Sheet No. 52G.4
Fourth Revised Sheet No. 52G.5
Third Revised Sheet No. 52C.6
Third Revised Sheet No. 52G.7
Fourth Revised Sheet No. 52G.8
Third Revised Sheet No. 52H.4
Third Revised Sheet No. 85Q.1
Third Revised Sheet No. 85Q.4

Northern states that such tariff sheets are being filed (1) in compliance with the order issued October 31, 1991 in Docket No. RP92-1, to implement the rates and certain provisions for Northern's storage-equivalent firm deferred delivery service (FDD-1) and interruptible deferred delivery service (IDD-1); and (2) to modify the FDD operating parameters as a result of Northern's annual evaluation of its capability to provide increased flexibility for FDD service pursuant to Section 3 of Rate Schedule FDD-1. Such modifications would be effective at the beginning of the next storage cycle, to commence June 1, 1992.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such petitions or protests must be filed on or before March 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4823 Filed 3-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-119-000]

Pacific Interstate Offshore Co.; Change in Rate

February 25, 1992.

Take notice that on February 21, 1992, Pacific Interstate Offshore Company ("PIOC") tendered for filing a Cost and Revenue Study and Rate Redetermination for natural gas service rendered pursuant to Rate Schedules G-10, FT-1, and IT-1 of its FERC Gas Tariff. The Rate Redetermination reflects a decrease in the currently authorized transportation rate.

As part of this filing, in compliance with the Commission's electronic filing requirements, PIOC is submitting First Rvised Volume No. 1 of its Gas Tariff to supersede Original Volume No. 1.

PIOC has requested that waiver be granted of all applicable rules and regulations of the Commission as may be necessary to implement the notice of change effective April 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211. All such motions or protests should be filed on or before March 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4821 Filed 3-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-120-000]

Panhandle Eastern Pipe Line Co., Proposed Changes in FERC Gas Tariff

February 25, 1992.

Take notice that Panhandle Eastern Pipe line Company (Panhandle) on February 21, 1992 tendered for filing new and revised tariff sheets and supportive schedules and workpapers.

Panhandle requests an effective date of April 1, 1992.

Panhandle states that the tariff sheets are intended to implement rates which are applicable to transportation performed by Panhandle on its Wattenberg System. The Wattenberg System is a discrete segment of pipeline facilities which is not physically connected to Panhandle's mainline system and entirely located in Adams, Arapahoe, Boulder, Larimer and Weld Counties, Colorado. This system aggregates gas in the Denver-Julesburg area of Colorado and ultimately interconnects with the Wattenberg Processing Plant owned by Amoco Production Company. The Wattenberg System was certificated originally in 1973. 49 FPC 823 (1973). The revised tariff sheets submitted herewith will implement a separate charge for utilization of the Wattenberg System. The new rates reflect only the Panhandle costs associated with its ownership and operation of the Wattenberg System.

The costs of the Wattenberg System are not now reflected in the jurisdictional rates charged by Panhandle and have not been included in rates since 1989. Panhandle filed a general rate case in Docket No. RP88-262-000 which eliminated the costs of the Wattenberg System from Panhandle's cost of service for ratemaking purposes. The rates authorized by the Commission in that docket took effect on April 1, 1989 and continue in effect. Those rates do not reflect costs associated with the Wattenberg System. In addition, on September 30, 1991, Panhandle filed a general rate case in Docket No. RP91-229-000 and the rates reflected therein also exclude costs associated with Panhandle's Wattenberg System in Colorado.

The tariff sheets and rates included in this filing are limited solely to service provided by Panhandle on the Wattenberg System. The tariff sheets are proposed to become effective concomitantly with the effective date of new rates filed in Panhandle's most recent general rate proceeding, Docket No. RP91-229-000. By implementation of the proposed rates, shippers on the Wattenberg System will pay rates that reflect the cost of service for the facilities of Panhandle they actually utilize. No otehr existing rates of Panhandle are proposed to change and transportation via the Wattenberg System will continue under Panhandle's open access blanket-type certificate. Shippers utilizing the Wattenberg System no longer will be required to pay generally applicable rates associated with transportation on Panhandle unless their transportation also includes the main Panhandle System. Thus, Shippers only utilizing the Wattenberg System will pay the proposed rates applicable specifically to Wattenberg service.

Panhandle states that copies of the rate filing are being served on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4820 Filed 3-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-118-000]

Panhandle Eastern Pipe Line Co. Proposed Changes in FERC Gas Tariff

February 25, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on February 21, 1992, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2 as reflected on Appendix A attached to the filing. Panhandle states that the subject tariff sheets bear an issue date of February 21, 1992, and a proposed effective date of April 1, 1992.

Panhandle states that the proposed tariff sheets reflect a volumetric surcharge to effectuate the recovery of 75% of approximately $6.5 million for take-or-pay settlement and contract reformation costs related to gas purchase arrangements with various producers suppliers. Panhandle states that it proposes to recover these amounts over a three year period commencing April 1, 1992 and terminating on March 31, 1995. Panhandle further states that the volumetric surcharge shall be based on one third (1/3) of the take-or-pay settlement and contract reformation costs including a component for carrying charges divided by total throughput underlying Panhandle's currently effective rates.

Panhandle states that the proposed volumetric take-or-pay surcharge will be billed in addition to Panhandle's currently effective rates, including the fixed take-or-pay charges and volumetric surcharge aproved by Commission Orders dated August 2, 1991 and September 25, 1991, in Docket Nos. RP91-52-000 and RP91-53-000.

Panhandle states that copies of the filing were served upon Panhandle's jurisdictional customers, interested state commissions, and on all parties in Docket No. RP91-229-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4822 Filed 3-2-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-10-NG]

Enserch Gas Co.; Application for Blanket Authorization to Import and Export Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of Application for Blanket Authorization to Import and Export Natural Gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on February 3, 1992, of an application filed by Enserch Gas Company (EGC) requesting blanket authorization to import up to 100 Bcf of natural gas per year and to export up to 100 Bcf per year of natural gas from and to Canada and Mexico, over a two-year period beginning on the date of first import of first export. EGC intends to use existing pipelines for the importation and exportation of gas supplies, and states that it will advise DOE of the date of first import or export and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 2, 1992.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION:

Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW, Washington, DC 20585 (202) 586–7751.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: EGC, a corporation organized under the laws of the State of Texas, is a marketer of natural gas and has its principal place of business in Dallas, Texas. EGC is a division of Lone Star Energy Company, which is a wholly owned subsidiary of Enserch Corporation. EGC requests authorization to import and export natural gas on a short-term or spot-market basis for its own account, as well as for the accounts of others for which EGC may agree to act as an agent.

EGC requests authorization to import gas for sale on a short-term, spot-market basis to U.S. purchasers, including local distribution companies, pipelines, municipalities, and end-users. The proposed export authority would enable EGC to sell U.S. gas it has purchased to Canadian and/or Mexican spot-market purchasers, including local distribution companies, pipelines, municipalities and end-users. In support of its application, EGC states that the terms of each import or export transaction will be the product of arms length negotiations and determined by competitive factors in the natural gas market.

The decision on the application for the import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing the proposed export application, domestic need for the gas will be considered, and any other issue determined to be appropriate. Parties that may oppose this application should comment in their responses on the issues of competitiveness as set forth in the policy guidelines for the requested import authority, and on the domestic need for gas the applicant proposes to export. The applicant asserts the proposed imports would be competitive and there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing the arrangement bear the burden of overcoming these assertions. All parties should be aware that FE, in order to allow EGC the maximum amount of flexibility, will treat EGC's application as a request for authorization to import and export up to 200 Bcf of natural gas, respectively, over a two-year term, and will not set annual limitations on any authorization that may be issued.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EGC's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, expect Federal holidays.

Issued in Washington, DC on February 26, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4911 Filed 3–2–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92-17-NG]

Mountain Gas Resources, Inc., Application for Blanket Authorization to Import and Export Natural Gas From and to Canada and Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of Application for Blanket Authorization to Import and Export Natural Gas from and to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on February 10, 1992, of an application filed by Mountain Gas Resources, Inc. (MGR) requesting blanket authorization to import up to 50 Bcf of natural gas from Canada and Mexico and to export up to 50 Bcf of natural gas to Canada and Mexico. The application requests that the authorization be approved for a period of two years commencing in the date of first import or export. MGR intends to use existing U.S. pipeline facilities which interconnect with Canadian and Mexican pipeline facilities at various points on the U.S./Canadian and U.S./Mexican borders. MGR states that it will submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATA: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 2, 1992.

ADDRESS: Office of Fuels Programs, Fossil Energy, Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, Department of Energy, Forrestal Building, room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586-7751.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586-0503.

SUPPLEMENTARY INFORMATION: MGR, a Delaware coporation with its principal place of business in Englewood, Colorado, is a marketer of natural gas and natural gas liquids throughout the Rocky Mountain, Pacific Northwest, and Mid-continent regions of the United States. MGR also owns and operates natural gas gathering and processing facilities, primarily located in southwestern Wyoming.

MGR proposes to import the requested volumes from Canadian or Mexican suppliers and, also, to import gas as agent for other parties, who desire either to sell or purchase Canadian or Mexican natural gas under short-term or spot market sales arrangements. MGR proposes to export the requested volumes from various U.S. suppliers and, also, to export gas as an agent for others parties that desire to sell natural gas under short-term or spot market sales arrangements. The specific terms of each import and export contract will be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility.

The decision of MGR's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest [49 FR 6684, February 22, 1984]. In reviewing MGR's application for export authority, the domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on the considerations discussed above that relate to the requested import/export authority. The applicant asserts that this import/export arrangement would be in the public interest. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decison will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to itnervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Potests, motions to intervene, notices of intervention, requests for additonal procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any requests for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issurs genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additonal procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinon and order maybe issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of MGR's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open

between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on February 26, 1991.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-4912 Filed 3-2-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-08-NG]

National Gas Resources Limited Partnership; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on February 3, 1992, of an application filed by National Gas Resources Limited Partnership (NGR) requesting blanket authorization to import up to 73 Bcf of natural gas from Canada over a two-year period commencing with the first date of delivery. NGR intends to use existing facilities and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time April 2, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

FOR FURTHER INFORMATION CONTACT:

Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7751.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: NGR, a natural gas marketing, management, and consulting company, is an Illinois Limited Partnership, 80% owned by National Material L.P., itself an Illinois Limited Partnership and 20% owned by Glasgow, Inc. incorporated in the State of Texas. NGR maintains an office at 1965 Pratt Boulevard, Elk Grove Village, Illinois.

NGR requests authority to import gas on its own behalf as well as on behalf of suppliers and purchasers for whom NGR may act as an agent. The terms of each spot or short-term transaction will be determined by competitive factors in the natural gas marketplace.

The decision on this application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts imports made under the proposed arrangement will be competitive and otherwise consistent with DOE import policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of NGR's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Firday, except Federal holidays.

Issued in Washington, DC on February 26, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-4913 Filed 3-2-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-03-NG]

Unigas Energy, Inc; Application to Export Natural Gas, Including LNG, to Canada, Mexico, and Other Countries

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas, including LNG, to Canada, Mexico and Other Countries.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 17, 1992, of an application filed by Unigas Energy, Inc. (Unigas) requesting blanket authorization to export up to a maximum of 200 Bcf of natural gas, including liquefied natural gas (LNG), to Canada, Mexico, and other countries, over a two-year period beginning with the first export after March 12, 1992, the date Unigas' current authorization expires. Unigas states it would use existing pipeline and LNG facilities to implement the proposed exports, and would submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 2, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3G–087, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8233.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Unigas, a Delaware corporation with its principal place of business in Traverse City, Michigan, requests authority to export gas for its own account, as well as for the accounts of others. The specific terms of each export, including price and volume, would be negotiated at arms length in response to market conditions.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must met the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentaton should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Unigas' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 27, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4914 Filed 3–2–92; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Floodplain/Wetlands Involvement for the Fort Peck-Wolf Point 230-kilovolt (kV) Transmission Line Rebuild Project; Valley, McCone, Roosevelt Counties, MT

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain/Wetlands involvement and opportunity to comment.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), is proposing to rebuild the existing 115-kV Fort Peck-Wolf Point Transmission Line. The line would be rebuilt in Valley, McCone, and Roosevelt Counties, Montana, and is approximately 36-miles long and extends from the Fort Peck Dam Switchyard to the Wolf Point

Substation. Pursuant to DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements," 10 CFR 1022, Western has determined that this proposed project would involve activities within a floodplain area. Approximately 85 percent of the proposed project area (Valley and Roosevelt Counties) has been mapped by the Federal Emergency Management Agency (FEMA). McCone County has not been mapped. According to FEMA maps, about 20 percent of the existing transmission line in the mapped area lies within identified 100-year floodplains. Western will prepare a floodplain/wetland assessment in accordance with Executive Order 11988–Floodplain Management, and Executive Order 11990–Protection of Wetlands. The floodplain/wetlands assessment will be part of the environmental documentation which Western is preparing for the subject proposed project. The existing transmission line carries power to the local electrical cooperatives in the area. The existing line was put in service in 1945. The existing line will be rebuilt to 230-kV standards and operated at 115-kV until the system would require energizing at 230-kV. Investigation of the existing line disclosed that the age and condition of the line has deteriorated to the point where safety and reliability has been affected.

DATES: Public comments or suggestions concerning the floodplain involvement of Western's proposed action are invited. Any comments are due no later than March 23, 1992.

ADDRESSES: Comments or suggestions should be sent to:

Mr. Jim Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800,(406) 657–6532;

Mr. Bill Kersell, Director of Environmental Affairs, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1527

FOR FURTHER INFORMATION CONTACT: Mr. Ted Anderson, Environmental Specialist, Billings Area Office, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107–5800, (406) 657–6575.

Issued at Golden, Colorado, February 4, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92–4917 Filed 3–2–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4110–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Recordkeeping and Reporting Requirements for Compliance with the 40 CFR part 258 Solid Waste Disposal Facility Criteria (ICR No. 1381.03). This ICR requests approval for a new collection.

Abstract: The ICR details the information collection activities associated with the revised solid waste diposal facility criteria promulgated on October 9, 1991, as provided in 40 CFR part 258. The revised criteria established minimum federal standards for owners and operators of municipal solid waste landfills (MSWLFs) to ensure that such facilities are designed and operated in manner that is protective of human health and the environment, as well as recordkeeping and notification requirements for MSWLF owners and operators to ensure compliance with the revised criteria.

Specifically, MSWLF owners/operators must record and maintain in an operating record, and make available to the States upon request: Location restriction demonstrations; inspection records, training and notification procedures; gas monitoring results and remediation plans; unit design documentation for leachate & gas condensate recirculation; monitoring, testing or analytical data; closure/post-closure care plans; and cost estimates and financial assurance documentation.

Notification requirements for MSWLF owners/operators include notifying the State when: A regulated hazardous waste or PCB waste is discovered at the facility; methane gas concentrations exceed specified limits; and when ground-water contamination is detected.

The information collected will be used to regulate and insure that MSWLFs are complying with the part 258 Criteria. The program is administered by the States and all information is submitted to the States. State burden consists of MSWLF notifications, MSWLFs demonstrations review, and requirements certification. EPA has enforcement authority in States where EPA has made a determination that the State is not approved and may request information for the MSWLFs owner or operator.

Burden Statement: The public reporting burden for this collection is estimated to average 123 hours per response and includes all aspects of the information collection including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Owners and Operators of Municipal Solid Waste Landfills, States.

Estimated number of Respondents: 4,050.

Estimated number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 499,266 hours.

Frequency of Collection: On occasion, annually.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460
and
Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: February 25, 1992.

Paul Lapsley,

Director, Regulatory Management Divison.

[FR Doc. 92–4896 Filed 3–2–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL-4111-2]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to El Paso Natural Gas Company, Dilkon Compressor Station (AZP 90-03), Navajo Compressor Station (AZP 90-02), and Window Rock Compressor Station (AZP 90-01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on October 18, 1991, the Environmental Protection Agency issued PSD permits for major modifications of existing major stationary sources under EPA's federal regulation 40 CFR 52.21 to the applicant named above. The PSD permits grant approval for the addition of gas turbine compressors for natural gas transmission within the Navajo Indian Reservation. A GE Frame 3 gas turbine AZP 90-03, will be located 1 miles north of the town of Dilkon, Navajo County, Arizona (½ section 34, Township 23 North, Range 19 East). The permit is subject to certain conditions, including an allowable emission rates as follows: NOx at 225.6 ppmvd at 15% O2 and 3 hour rolling average, CO at 60 ppmvd at 15% O2 and 3 hour rolling average. AZP 90-02 and AZP 90-01 allow the addition of one Solar Centaur H in the following locations: AZP 90-02 to be located 7 miles northeast of the Indian community of Greasewood, Apache County, Arizona (½ section 24, Township 25 North, Range 24 East) and AZP 90-01 to be located 5 miles southwest of the community of Window Rock, Apache County, Arizona (west ½ northeast ¼ of section 34, Township 26 North, Range 30 East). Both permits are subject to certain conditions, including allowable emission rates as follows: NOx at 85 ppmv dry at 15% O2 and 3 hour rolling average, and CO at 10.5 ppmv dry at 15% O2 and 3 hour rolling average. In 1994, all three turbines will have to comply with a NOx limit of 42 ppmv dry at 15% O2 and 3 hour rolling average.

DATES: The PSD permits are reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeal. A petition for review must be filed by May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Copies of the permits are available for public inspection upon request; address request to: Linda Barajas (A-5-1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (414) 744-1244, FTS 484-1244.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include CEMS for NO2, CO, and O2, and retrofit of a Dry Low NOx Combustor in 1994.

Dated: February 18, 1992.

Carl C. Kohnert,

Acting Director Air and Toxics Division, Region 9.

[FR Doc. 92-4899 Filed 3-2-92; 8:45 am]

BILLING CODE 6560-50-M

(FRL-4105-9)

Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Delano Energy Co., Inc. & Delano Biomass Energy Co., Inc. (EPA Project Number SJ 90-01)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on July 10, 1991, the Environmental Protection Agency issued a PSD permit for a major stationary source under EPA's federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval for two Biomass fired bed boilers, gross output of 48.8 MW, to be located in Kern County at 31500 Pond Road, Delano, CA 93215 (section 25, Township 255, Range 25E). The permit is subject to certain conditions, including an allowable emission rate as follows: (1). 315 mmBTU/hr boiler, NOx at 44 ppm at 12% CO2 and 3 hour rolling average, CO at 127 ppm at 12% CO2 and 3 hour rolling average, SO2 at 13.07 ppm at 12% CO2 and 3 hour rolling average, and PM10 at 0.01 gr/dscf at 12% CO2 and 3 hour rolling average, (2). 400 mmBTU/hr boiler, NOx at 63.67 ppmd at 3% O2 and 3 hour rolling average, CO at 183 ppmd at 3% O2 and 3 hour rolling average, SO2 at 19 ppmd at 3% O2 and 3 hour rolling average, and PM10 at .01 gr/dscf at 3% O2 an 3 hour rolling average.

FOR FURTHER INFORMATION: Copies of the permit are available for public inspection upon reqest; address request to: Linda Barajas (A-5-1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA, 94105, (415) 744-1244, FTS 484-1244.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the following: 1). Thermal DeNox with ammonia injection for Nox control; 2). Limestone injection for SO2 contro; 3). Baghouse for Particulate Matter control; 4). Fluidized bed with staged combustion for control of CO; 5). CEMS for NOx, CO, CO2, SO2, O2, and visible emissions; 6). funding of a photography station at the Domeland Wilderness for five years to be coordinated by the U.S. Forest Service. The PSD permit is reviewable under section 307 (b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeal. A petition for review must be filed by 60 days after publication in the **Federal Register.**

Dated: February 20, 1992.

David P. Howekamp,

Director, Air and Toxics Division, Region 9.

[FR Doc. 92-4900 Filed 3-2-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4111-4]

Gulf of Mexico Program Technical Steering Committee Meeting

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting of the Technical Steering Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program Technical Steering Committee will hold a meeting on March 12-13, 1992 at the Pensacola Hilton, 200 East Gregory St., Pensacola, FL.

FOR FURTHER INFORMATION CONTACT: Mr. William Whitson, Gulf of Mexico Program Office, Stennis Space Center, MS 39529 at (601) 688-3726, FTS 494-3726.

SUPPLEMENTARY INFORMATION: A meeting of the Technical Steering Committee of the Gulf of Mexico Program will be held on March 12-13, 1992 at the Pensacola Hilton in Pensacola, FL. Agenda items will include status reports to the Committee on the current Action Plans status, Oil Spill Task Force report, Strategic Planning and Comparative Risk, the Gulf Program's FY92, 93 and 94 budget, Year of the Gulf activities, 1992 Symposium status report, legislation update and a discussion of the Gulf of Mexico as the Nonpoint Source Laboratory for the Nation. The meeting is open to the public.

Martha Prothro,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 92-4897 Filed 3-2-92; 8.45 am]

BILLING CODE 6560-50-M

[OPPTS-51788; FRL 4050-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 34 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-461, April 26, 1992.

P 92-471, April 29, 1992.

P 92-472, 92-473, 92-474, 92-475, 92-476, 92-477, 92-478, 92-479, 92-480, 92-481, 92-482, 92-483, 92-484, 92-485, 92-486, 92-487, May 2, 1992.

P 92-488, 92-489, May 3, 1992.

P 92-490, 92-491, 92-493, 92-494, 92-495, 92-496, 92-497, 92-498, 92-499, May 4, 1992.

P 92-500, May 5, 1992.

P 92-501, May 9, 1992.

P 92-502, 92-503, 92-504, May 6, 1992.

Written comments by:

P 92-461, March 27, 1992.

P 92-471, March 30, 1992.

P 92-472, 92-473, 92-474, 92-475, 92-476, 92-477, 92-478, 92-479, 92-480, 92-481, 92-482, 92-483, 92-484, 92-485, 92-486, 92-487, April 2, 1992.

P 92-488, 92-489, April 3, 1992.

P 92-490, 92-491, 92-493, 92-494, 92-495, 92-496, 92-497, 92-498, 92-499, April 4, 1992.

P 92-500, April 5, 1992.

P 92-501, April 9, 1992.

P 92-502, 92-503, 92-504, April 6, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS-51788)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92-461

Manufacturer. Rohm Tech Inc.

Chemical. (G) Formaldehyde.

Use/Production. (S) Textile coating/finishing. Prod. range: Confidential.

P 92-471

Manufacturer. Shell Oil Company.

Chemical. (G) Epoxy resin.

Use/Production. (S) Other industrial. Prod. range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-472

Manufacturer. Futura Coatings, Inc.

Chemical. (S) Reaction product of an alkyl carbmonocyclic diisocyanate and a substituted alkyl, heteromonocycle.

Use/Production. (G) Coating addition. Prod. range: Confidential.

P 92-473

Manufacturer. Futura Coatings, Inc.

Chemical. (G) Reaction product of an alkyl-carbomonocyclic diisocyanate and a substituted alkyl hetermonocycle.

Use/Production. (G) Coating additive. Prod. range: Confidential.

P 92-474

Manufacturer. Futura Coatings, Inc.

Chemical. (G) Reaction product of modified polyalkene, polyalkylenepolyol and alkyl carbomonocyclic diisocyanate.

Use/Production. (G) Coating component. Prod. range: Confidential.

P 92-475

Manufacturer. Futura Coatings, Inc.

Chemical. (G) Reaction product of polyalkylene polyols methyenbis(carbomonocyclic isocyanate) and xoheleromonocycle.

Use/Production. (G) Coating component. Prod. range: Confidential.

P 92-476

Manufacturer. Futura Coating, Inc.

Chemical. (G) Reaction product of polyalkylenepolyol, carbomonocyclic diisocyanate, and modified polyalkene.

Use/Production. (G) Coating component. Prod. range: Confidential.

P 92-477

Manufacturer. Texaco Chemical Company.

Chemical. (S) Poly(oxy(methyl-1,2-ethanediyl)alpha, alpha'-1,2,3-propanetriyltris-(omrga-(2-aminomethylethoxy)-, reaction product with benzene, 1,3-bis(1-disocyanato-1-methylethyl)- (1:3).

Use/Production. (S) Polyurethane. Prod. range: Confidential.

P 92-478

Manufacturer. Texaco Chemical Company.

Chemical. (S) Poly(oxy(methyl-1,2-ethanediyl)alpha, alpha'-1,2,3-propanetriyltris-(omega-(2-aminoethoxy)-, reactoon product with benzen,1,3-bis(1-isocyanato-1-methylethyl)-(2:3).

Use/Production. (S) Polyurethane. Prod. range: Confidential.

P 92-479

Importer. Confidential.

Chemical. (G) Formaldehyde polymer.

Use/Import. (G) Coating for electronic parts. Import range: Confidential.

P 92-480

Manufacturer. Confidential.

Chemical. (G) Aromatic isocyanate-polyester-polyether-based urethane prepolymer.

Use/Production. (G) Laminating adhesive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (mouse). Acute dermal toxicity: LD50 > 9,400 mg/kg species (rabbit). -Inhalation toxicity: LC50 178 mg/m3.

P 92-481

Importer. Confidential.

Chemical. (S) Furan, tetrahydro-3-methyl, polymer with tetrahydroxyethyl acrylate; isophorone diisocyanate.

Use/Import. (S) Radiation curable coating. Import range: Confidential.

P 92-482

Manufacturer. Olin Corporation.

Chemical. (G) Mixture of polyalkylene glycol phosphate esters.

Use/Production. (S) Metal working fluid lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2g/kg species (rabbit). Static acute toxicity: time EC50 96h100 mg/l species (freshwater algal). Eye irritation: strong species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative. Skin

sensitization: positive species (guinea pig).

P 92-483

Importer. Enthone-OMI, Inc.
Chemical. (G) *N*-Alkyl-nitrogen heterocycle.
Use/Import. (G) Chemical additive. Import range: Confidential.

P 92-484

Importer. Dic Trading (U.S.A.), Inc.
Chemical. (G) Polyester polyurethane.
Use/Import. (G) Polyurethane for adhesive. Import range: Confidential.

P 92-485

Importer. Confidential.
Chemical. (G) Poly-*B*-fluoroalkylethyl acrylate alkyl acrylate.
Use/Import. (G) Textile coating. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 92-486

Importer. Confidential.
Chemical. (G) Poly-*B*-fluoroalkyl acrylate and alkyl acrylate.
Use/Import. (G) Textile coating. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 92-487

Importer. Central Glass International Inc.
Chemical. (G) Vinyl ester, polymer with halogenated alkene and a substituted alkanol.
Use/Import. (G) Paint component. Import range: 5,000–20,000 kg/yr.

P 92-488

Manufacturer. Confidential.
Chemical. (G) Amine terminated polyether.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-489

Manufacturer. Confidential.
Chemical. (G) Polyoxymethylene.
Use/Production. (G) Adhesive nondispersive. Prod. range: Confidential.

P 92-490

Manufacturer. Inx International Ink, Co.
Chemical. (G) Chain-stopped alkyd resin.
Use/Production. (G) Open, nondispersive. Prod. range: 12,000–160,000 kg/yr.

P 92-491

Manufacturer. M-I Drilling Fluids Company.
Chemical. (G) Polyaminopolyacid.
Use/Production. (S) Material used to drill oil/gas wells. Prod. range: 100,000–1,000,000 kg/yr.
Toxicity Data. Static acute toxicity: time LC50 96h588,364 ppm species (mysidopsis bahia).

P 92-493

Manufacturer. E.I. Du Pont De Nemours & Comapny, Inc.
Chemical. (G) Methacrylic acid copolymer.
Use/Production. (G) Pressure substance. Prod. range: Confidential.

P 92-494

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Methacrylic acid copolymer salt.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-495

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.
Chemical. (G) Methacrylic acid copolymer salt.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-496

Manufacturer. E.I. Du Pont De Nomours Company, Inc.
Chemical. (G) Azonapthalene sulfonate dye.
Use/Production. (G) Dye for printing material. Prod. range: Confidential.

P 92-497

Importer. Confidential.
Chemical. (G) Blocked polyurethane.
Use/Import. (S) Adhesive promoter for automobile coating. Import range: 14,000–32,000 kg/yr.

P 92-498

Manufacturer. Confidential.
Chemical. (G) Isocyanate reaction products.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-499

Manufacturer. Confidential.
Chemical. (G) Isocyanate reaction products.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-500

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) A copolymer of diallylbisphenol *A* with an aliphatic polyether polyurethane.
Use/Production. (S) Toughener for epoxy adhesive. Prod. range: 10,000–60,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 92-501

Manufacturer. Angus Chemical Company.
Chemical. (S) 4-Ethyl-2-methyl-2-(3-methylbutyl)-1,3-oxazolidine.
Use/Production. (S) Moisture scavenger for urethane coatings. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2.5–3.6 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Mutagenicity: negative.

P 92-502

Manufacturer. Safety-Kleen Corporation.
Chemical. (S) Lubricanting oils, used residuas.
Use/Production. (S) Asphalt extender. Prod. range: 80 mm.
Toxicity Data. Mutagenicity: negative.

P 92-503

Manufacturer. The Dow Chemical Company.
Chemical. (G) *B*-stage unsaturated organic disubstituted ketone.
Use/Production. (S) Intermediate for high performance composites. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 < 2,000 mg/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 92-504

Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo triazine.
Use/Import. (G) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 species (rat). Acute dermal toxicity: LD50 > 2,000 species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

Dated: February 25, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-4919 Filed 3-2-92; 8:45 am]
BILLING CODE 6560-50-F

[OPPTS-59288A; FRL-4051-2]

Certain Chemical; Approval of Modifications to a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of modifications to test marketing manufacture sites and number of customers for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing application as TME-90-19. The test marketing conditions are described below.

EFFECTIVE DATES: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Mark Howard, New Chemicals Branch, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, room E-611, 401 M St. SW., Washington, DC 20460, (202) 260-4143.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the modification to add an additional site of manufacture and additional customer for TME-90-19. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application and modification request, will not present any unreasonable risk of injury to health or the environment. The number of sites of manufacture and number of customers must not exceed those specified in the application and modification request. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

T-90-19

Notice of Approval of Original Application: October 19, 1990 (55 FR 42473).

Modified Number of Sites of Manufacture: Add one site of manufacture. Total number of sites is confidential.

Modified Number of Customers: Add one customer. Total number of customers is confidential.

Test Marketing Period: Confidential. Period commences on first day of commercial manufacture.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: February 21, 1992.

Linda Vlier Moos,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-4918 Filed 3-2-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL RESERVE SYSTEM

Columbia Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 30, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Columbia Bancorp, Columbia, Maryland; to acquire Fairview Savings and Loan Association, Ellicott City, Maryland, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 26, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4857 Filed 3-2-92; 8:45 am]

BILLING CODE 6210-01-F

Community Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 30, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Group, Inc., Chattanooga, Tennessee; to acquire an additional 68.5 of the voting shares of

Consolidated Bancorporation, Inc., Chattanooga, Tennessee, for a total of 100 percent, and thereby indirectly acquire Volunteer Bank and Trust, Chattanooga, Tennessee.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. KSAD, Inc., Council Bluffs, Iowa; to merge with Navada National Company, Omaha, Nebraska, and thereby indirectly acquire Navada National Bank, Navada, Iowa; and Williamsburg Holding Company, Omaha, Nebraska, and thereby indirectly acquire Security Savings Bank, Williamsburg, Iowa. Applicant has also applied to acquire 100 percent of the voting shares of Rainwood Corporation, Omaha, Nebraska, and thereby indirectly acquire Valley State Bank, Rock Valley, Iowa.

2. Midlothian State Bank ESOP, Midlothian, Illinois; to acquire 7.06 percent of the voting shares of Midlothian State Bank, Midlothian, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bancshares Corporation, Gladstone, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank, Upper Michigan, N.A., Gladstone, Michigan.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Capital Bancorp, Inc., Guthrie, Oklahoma; to become a bank holding company by acquiring 98 percent of the voting shares of First Capital Bank, Guthrie, Oklahoma.

Board of Governors of the Federal Reserve System, February 26, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4858 Filed 3-2-92; 8:45 am]

BILLING CODE 6210-01-F

Marcia Bieber, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 24, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Marcia Bieber, Los Altos, California; and Patricia Maino, Carmel, California; to each acquire an additional 3.76 percent of the voting shares of Comban Shares, Inc., Oklahoma City, Oklahoma, for individual totals of 30.56 percent, and thereby indirectly acquire Community Bank and Trust Company, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, February 26, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4856 Filed 3-2-92; 8:45 am]

BILLING CODE 6210-01-F

Moxham Bank Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 30, 1992.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Moxham Bank Corporation, Johnstown, Pennsylvania; to engage *de novo* through its subsidiary, Moxham Community Development Corporation, Johnstown, Pennsylvania, in community development activities pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Pennsylvania and Maryland.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. The Dai-Ichi Kangyo Bank, Limited, Tokyo, Japan; to engage *de novo* through its subsidiary, The CIT Group Holdings, Inc., New York, New York, in operating a collection agency for the collection of accounts receivable, either retail or commercial, pursuant to § 225.25(b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 26, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4859 Filed 3-2-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3370]

Elexis Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Miami-based manufacturer from calling

its ultrasonic dog and cat collars by names such as Flea Relief, Pet Shield, Flea Buster, Flea and Tick Collar, and from representing that such collars will eliminate or repel fleas or repel ticks without the use of chemicals.

DATES: Complaint and Order issued February 6, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Timothy Hughes, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., suite 1437, Chicago, IL 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Tuesday, November 19, 1991, there was published in the **Federal Register**, 56 FR 58384, a proposed consent agreement with analysis In the Matter of Elexis Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the inssuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 92-4890 Filed 3-2-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3369]

The Money Store Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New Jersey-based company and its subsidiaries to pay injured consumers redress totalling more than $1 million, and prohibits them from violating certain provisions of the Truth in Lending Act.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DATES: Complaint and Order issued February 6, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Chris Couillou, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree Street, NW., room 1000, Atlanta, GA 30367. (404) 347-4836.

SUPPLEMENTARY INFORMATION: On Tuesday, November 26, 1991, there was published in the **Federal Register**, 56 FR 59942, a proposed consent agreement with analysis In the Matter of The Money Store Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; (12 CFR 226) of the Truth in Lending Act; Pub. L. 90-321, 15 U.S.C. 45, 1601, *et seq.*)

Donald S. Clark,

Secretary.

[FR Doc. 92-4891 Filed 3-2-92; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 179; 2-GR-NY-590E]

Federal Property Resources Service; Mobile Street Portion (Parcel B), Sayville International Flight Service Transmitter Facility, Islip, NY; Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667b-d), notice is hereby given that:

1. By letter from the General Service Administration dated January 27, 1992, the property, consisting of 25.947 acres of unimproved land, known as a portion of Sayville International Flight Service Transmitter Facility, Islip, New York, has been transferred to the Fish and Wildlife Service, Department of the Interior.

2. The above described property was transferred for wildlife conservation in accordance with the provisions of section 1 of said Public Law 80-537 (16 U.S.C. 667b), as amended, by Public Law 92-432.

Dated: February 21, 1992.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 92-4845 Filed 3-2-92; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0090]

Drug Export; Doxorubicin Hydrochloride Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Lyphomed, Div. of Fujisawa has filed an application requesting approval for the export of the human drug Doxorubicin Hydrochloride Injection to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 820(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public

participation in its review of the application. To meet this requirement, the agency is providing notice that Lyphomed, Div. of Fujisawa, 2045 N. Cornell Ave., Melrose Park, IL 60160–1002, has filed an application requesting approval for the export of the drug Doxorubicin Hydrochloride Injection to Canada. This drug is indicated for use as an antineoplastic agent. The application was received and filed in the Center for Drug Evaluation and Research on December 3, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992 and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4862 Filed 3–2–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 92N–0091]

Drug Export; Prepulsid™ (Cisapride Monohydrate) Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Janssen Research Foundation has filed an application requesting approval for the export of the human drug Prepulsid™ (cisapride monohydrate) Tablets to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Janssen Research Foundation, 40 Kingsbridge Rd., Piscataway, NJ 08855–3998, has filed an application requesting approval for the export of the human drug Prepulsid™ (cisapride monohydrate) Tablets to Canada. This drug is indicated for use as a treatment of gastroesophageal reflux disorders. The application was received and filed in the Center for Drug Evaluation and Research on January 21, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4863 Filed 3–2–92; 8:45 am]

BILLING CODE 4160–01–M

Food and Drug Administration

[Docket No. 92N–0092]

Drug Export; Corgard Tablets 40mg

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Myers Squibb Co. has filed an application requesting approval for the export of the human drug Corgard Tablets 40 mg to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public

participation in its review of the application. To meet this requirement, the agency is providing notice that Bristol-Myers Squibb Co. P.O. Box 4000, Princeton, NJ 08543–4000, has filed an application requesting approval for the export of the drug Corgard tablets 40 mg to Canada. This drug is indicated for use as an antianginal and antihypertensive agent. The application was received and filed in the Center for Drug Evaluation and Research on January 17, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30–day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4864 Filed 3–2–92; 8:45 am]

BILLING CODE 4160–01–M

Food and Drug Administration

[Docket No. 92N–0093]

Drug Export; Hydrea Capsules 500 mg

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Myers Squibb Co. has filed an application requesting approval for the export of the human drug Hydrea Capsules 500 mg to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Admendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug and Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000, has filed an application requesting approval for the export of the drug Hydrea Capsules 500 mg to Canada. This drug is indicated for concomitant use with irradiation therapy in the local control of primary squamous cell carcinomas of the head and neck. The application was received and filed in the Center for Drug Evaluation and Research on January 2, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Managment Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992, and to provide an additional copy of the submission directly to the contact person identifed above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4865 Filed 3–2–92; 8:45 a.m.]

BILLING CODE: 4160–01–M

[Docket No. 92N–0094]

Drug Export; Corzide Tablets (40mg/5mg, 80mg/5mg)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Myers Squibb Co. has filed an application requesting approval for the export of the human drug Corzide Tablets to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that

Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000, has filed an application requesting approval for the export of the drug Corzide Tablets to Canada. This drug is indicated for use as a maintenance therapy of patients with hypertension. The application was received and filed in the Center for Drug Evaluation and Research on November 6, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44)

Dated: February 24, 1992.

Daniel L. Michels,

Directror, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4866 Filed 3–2–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 92N–0095]

Drug Export; Pravachol Tablets 10mg and 20mg

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Myers Squibb Co. has filed an application requesting approval for the export of the human drug Pravachol Tablets to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendement Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provided that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Secton 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** wihtin 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000, has filed an application requesting approval for the export of the drug Pravachol Tablets to Canada. This drug is indicated for use as a cholesterol-lowering agent. The application was received and filed in the Center for Drug Evaluation and Research on November 26, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 13, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–4867 Filed 3–2–92; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Hearing; Reconsideration of Disapproval of Georgia State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 15, 1992; 10 a.m.; 9th floor; room 905; 101 Marietta Street; Atlanta, Georgia to reconsider our decision to disapprove Georgia SPA 90–29.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by March 18, 1992.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 1849 Gwynn Oak Avenue, Meadowwood East Building, Ground Floor, Woodlawn, Maryland 21207, Telephone: (410) 597–3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Georgia State plan amendment (SPA) number 90–29.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Georgia submitted SPA 90–29 on September 13, 1990 and additional information on August 26, 1991. The SPA is to exclude infrequent or irregular income in the Medicaid posteligibility process (i.e., the process for determining the amount of an institutionalized patient's income that can be contributed toward the cost of care, reducing the amount that the Medicaid program would otherwise pay).

The issues in this matter are whether: (1) By excluding irregular or infrequent income in the posteligibility process, the amendment violates section 1902(a)(17) of the Act as implemented by the regulations at 42 CFR 435.725 and 435.832; and, (2) irregular or infrequent income is available income which must be considered in the posteligibility process.

In determining a State's payment to an institution, Medicaid regulations at 42 CFR 435.725 and 42 CFR 435.832 require that the payment be reduced by the amount of the patient's income that can be contributed toward the cost of care. The patient's contribution is his or her total income, less specified allowances to meet needs not met by the institution. In determining a patient's total income, the State proposed to disregard income that is received infrequently or irregularly. Under agency policy in State Medicaid manual section 3701.2, total income includes all available amounts that meet the definition of income used to determine Medicaid eligibility and certain other types of payments which are not considered to be income in the eligibility determination. In determining eligibility for the aged, blind, and disabled, Georgia follows the definition of income used in the Supplemental Security Income (SSI) program. The SSI definition of income does not exclude amounts based on frequency or regularity of receipt. Therefore, infrequent or irregular income must be counted in the posteligibility determination for aged, blind, and disabled individuals. HCFA concluded that the State's proposal to exclude this income for its SSI-related institutionalized population in the posteligibility process would violate the regulations and, thus, violate the requirement in 42 USC 1396a(a)(17) for States' standards to be in accordance with standards prescribed by the Secretary. (While the nursing home reform provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) provide for protecting patients' funds, they do not provide a basis for disregarding interest income in the posteligibility process, as the State indicated.)

With respect to the program of Aid to Families with Dependent Children (AFDC), most irregular and infrequent income is counted as income although certain irregular income may be averaged. Because the State also proposes to exclude irregular and infrequent income for its AFDC-related institutionalized population in the post-eligibility process, HCFA concluded the proposal would violate Medicaid regulations in AFDC-related cases and, thus, not comply with the standards prescribed by the Secretary.

The notice to Georgia announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Russell B. Toal,
Commissioner, Department of Medical Assistance, Floyd Veterans Memorial Building, West Tower, 2 Martin Luther King, Jr. Drive, SE., Atlanta, Georgia 30334

Dear Mr. Toal: I am responding to your request for reconsideration of the decision to disapprove Georgia State Plan Amendment (SPA) 90–29.

Georgia submitted SPA 90–29 on September 13, 1990 and additional information on August 26, 1991. The SPA is to exclude infrequent or irregular income in the Medicaid posteligibility process (i.e., the process for determing the amount of an institutionalized patient's income that can be contributed toward the cost of care, reducing the amount that the Medicad program would otherwise pay).

The issues in this matter are whether: (1) By excluding irregular or infrequent income in the posteligibility process, the amendment violates section 1902(a)(17) of the Act as implemented by the regulations at 42 CFR 435.725 and 435.832; and, (2) irregular or infrequent income is available income which must be considered in the posteligibility process.

I am scheduling a hearing on your request for reconsideration to be held on April 15, 1992; 10 a.m.; 9th floor; room 905; 101 Marietta Street; Atlanta, Georgia. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597–3013.

Sincerely,

Gail R. Wilensky, Ph.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 26, 1992.

Gail R. Wilensky, Ph.D.

Administrator, Health Care Financing Administration.

[FR Doc. 92–4934 Filed 3–2–92; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Final Funding Priorities for Grants for Graduate Training in Family Medicine

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year (FY) 1992 Grants for Graduate Training in Family Medicine, authorized under the authority of section 786(a), title VII of the Public Health Service Act, extended by the Health Professions Reauthorization Act of 1988, Public Law 100–607, title VI.

This authority expired on September 30, 1991. This program announcement is subject to reauthorization of this legislative authority.

Approximately $19.4 million is available for this program in FY 1992. Of this amount, $9.3 million is committed to previously approved continuation awards. Approximately 78 competing awards will be made averaging $130,000 each.

Proposed funding priorities were published in the **Federal Register** dated July 16, 1991, at 56 FR 32438 for public comment. No comments were received during the 30–day comment period.

Funding priorities nos. 1 and 3 will be retained as proposed. Funding priority No. 2 has been revised to revert back to the funding priority established in fiscal year 1989 for Grants for Faculty Development in Family Medicine after public comment, dated December 12, 1988, 53 FR 49929. The Department has determined that this is a more appropriate means to achieve program goals.

The final funding priorities are as follows:

Final Funding Priorities

In addition, funding priorities will be given to:

1. Applications that propose to provide educational experiences to demonstrate to residents the provision of primary care services to underserved populations. These experiences must include substantial training involving one or more of the following eligible entities: (1) Inpatient or outpatient health care facilities located in a Health

Professional Shortage Area (HPSA), PHS Act, section 332 or in a Medically Underserved Area (MUA) designated under provisions of PHS Act, section 330(b)(3), (2) Community Health Centers currently supported under PHS Act, section 330, Migrant Health Centers currently supported under PHS Act, section 329, Homeless Health Centers supported under PHS Act, section 340, facilities that have formal arrangements to provide primary health services to public housing communities, or hospitals and/or health care facilities of the Indian Health Service, or (3) health care facilities, that draw at least 50 percent of their teaching program patients from areas or populations designated as HPSAs or MUAs.

Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas. Section 330(b) establishes Medically Underserved Areas which are areas designated by the PHS, based on four criteria:

(1) infant mortality rate;

(2) percentage of the population below the poverty level;

(3) percentage of the population over age 65; and

(4) number of practicing primary care physicians per 1,000 population.

Section 330 authorizes support for community health care services to medically underserved populations. Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers. Section 340 authorizes Health Care for the Homeless Program, as used here, means a community-based program of comprehensive primary health care and substance abuse services brought to the homeless population. At a minimum, this program of care and services must be fully integrated and must assure that care, coordination and case management are rigorously employed. A full description of the program may be found in the **Federal Register** dated August 1, 1990, at 55 FR 31233.

Public Housing Communities means the residents of low income public housing projects that receive Federal assistance, usually through a local public housing agency, under the provisions of the U.S. Housing Act of 1937.

To meet this priority 20 percent of each resident's training time over the course of the training program must occur in an eligible facility or facilities as described above. All continuity of care and block training experience in eligible ambulatory and/or inpatient settings may be counted toward this provision.

2. Projects which satisfactorily demonstrate a net increase in enrollment of underrepresented minorities in proportion or more to their numbers in the general population or can document extent to which applicant attracts, retains and assures program completion of underrepresented minorities (i.e. Black, Hispanic and American Indian/Alaskan Native minority trainees).

3. Applications that demonstrate that curricular time and educational offerings will be devoted to demonstrating and achieving better preventive/primary care services for underserved communities, areas or populations.

Additional Information

If additional programmatic information is needed, please contact: Mr. Donald Buysse, Chief, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C-04, Rockville, Maryland 20857. Telephone: (301) 443-6820.

The program, Grants for Graduate Training in Family Medicine, is listed at 93.379 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 21, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4861 Filed 3-2-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Meeting of the Genome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Genome Research Review Committee, National Center for Human Genome Research, March 11, 1992, at the Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC.

This meeting will be open to the public on March 11 from 8:30 a.m. to 9 a.m. to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 522b(c)(4) and 552(b)(6), title 5, U.S.C. and sec 10(d) of Public Law 92-463, the meeting will be closed to the public on March 11, 1992 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Linda Engel, Chief, Office of Scientifc Review, National Center for Human Genome Research, Building 38A, room 604, Bethesda, Maryland 20892, (301) 402-0838, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research)

Dated: February 24, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-5019 Filed 2-28-92; 2:00 p.m.]

BILLING CODE 4140-01-M

National Center for Nursing Research; Nursing Science Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, March 11-13, 1992, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on March 11 from 8:30 a.m. to 10 a.m. Agenda items to be discussed will include a Report from the Director, NCNR; an Administrative Report by the Scientific Review Administrator, Nursing Science Review Section; a discussion of a new NCNR Program Announcement titled "Nursing Research Interface with Biological Sciences—A 1992 Initiative for NCNR in Research Training and Career Development," Acute and Chronic Illness Branch; and a presentation by the Chairman of the Nursing Science Review Section on the NIH Director's Chairpersons meeting.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.Code and section 10(d) of Public Law 92-463, the meeting will be closed to the public on March 11 from 10 a.m. to adjournment on March 13 for the review, discussion, and evaluation of individual grant

applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Mary Stephens, Scientific Review Administrator, Nursing Science Review Section, National Center for Nursing Research, National Institutes of Health, Building 31, room 5B10, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: February 24, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-5018 Filed 2-28-92; 2:00 pm]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for March 1992.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The notice for the March 3 meeting and the March 5-6 meeting is being published less than 15 days prior to the meeting due to the difficulty in coordinating conflicting schedules of members.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each scientific review administrator whose name, room number, and telephone number are listed below each committee.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee
Scientific Review Administrator: Dr. Carole Latker, room 9A10, Westwood Building, Telephone: 301-496-7125
Dates of Meeting: March 3, 1992
Place of Meeting: Building 31, Conference Room 7, National Institutes of Health
Open: March 3, 8:30 a.m.-9:30 a.m.
Closed: March 3, 9:30 a.m.-adjournment

Name of Committee: Minority Access to Research Careers Review Subcommittee
Scientific Review Administrator: Dr. Helen Sunshine, Room 9A10, Westwood Building, Telephone: 301-496-7125
Dates of Meeting: March 5-6, 1992
Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health
Open: March 5, 8:30 a.m.-9:30 a.m.
Closed: March 5, 9:30 a.m.-5 p.m.; March 6, 8:30 a.m.-adjournment

Name of Committee: Minority Biomedical Research Support Review Subcommittee
Scientific Review Administrator: Dr. Ernie Marquez, Room 9A13, Westwood Building, Telephone: 301-402-0635
Dates of Meeting: March 30-31, 1992
Place of Meeting: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815
Open: March 30, 8:30 a.m.-9:30 a.m.
Closed: March 30, 9:30 a.m.-5 p.m.; March 31, 8:30 a.m.-adjournment

Name of Committee: Pharmacological Sciences Review Committee
Scientific Review Administrator: Dr. Irene Glowinski, Room 9A10, Westwood Building, Telephone: 301-496-7125
Dates of Meeting: March 31, 1992
Place of Meeting: Newark Airport Marriott Hotel, Newark International Airport, Newark, New Jersey
Open: March 31, 8:30 a.m.-9:30 a.m.
Closed: March 31, 9:30 a.m.-adjournment

(Catalog of Federal Domestic Assistance Program No. 93-859, 93-862, 93-863, 93-880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: February 24, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-5020 Filed 2-28-92; 2:06 pm]

BILLING CODE 4140-01-M

Social Security Administration

[Social Security Ruling SSR 92-2a]

Disability Insurance Benefits—Reduction to Zero Due to Receipt of State Disability Payments

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 92-2a. This Ruling is based on a 1985 administrative law judge (ALJ) decision that reduced the claimant's Social Security disability insurance benefits to zero because he was receiving State disability payments which, along with the Social Security disability benefits, exceeded 80 percent of his average current earnings prior to the onset of disability. The ALJ decided that the claimant's wages from the State of Colorado were not covered under Social Security and, therefore, could not be included in the calculation of his "average current earnings." The ALJ also decided that Colorado law did not provide for a "reverse offset" for the Public Employees' Retirement Association disability payment because there was no reduction in the State disability payment due to the person's receipt of Social Security disability benefits. And, finally, the ALJ decided that the State disability payment received by the plaintiff is paid pursuant to the laws of the State of Colorado and is, therefore, a public, not private, disability payment subject to offset. The ALJ's decision was affirmed by a judgment of the U.S. District Court for the District of Colorado on October 8, 1986, which, in turn, was affirmed by a *per curiam* opinion of the U.S. Court of Appeals for the Tenth Circuit on November 4, 1987.

EFFECTIVE DATE: March 3, 1992

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are

publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners)

Dated: February 18, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 210(a)(7), 218(b), (c)(4), and 224 of the Social Security Act (42 U.S.C. 410(a)(7), 418(b), (c)(4), and 424a) Disability Insurance Benefits—Reduction to Zero Due to Receipt of State Disability Payments

20 CFR 404.211(b), 404.221(b), 404.408, 404.1020 and 404.1214

The claimant applied for Social Security disability benefits and was found disabled beginning August 20, 1984. However, his Social Security disability benefits were offset and reduced to zero because he also received a public disability payment from the Colorado Public Employees' Retirement Association. The offset was made because the amount he received in Social Security disability benefits and payments from the Public Employees' Retirement Association exceeded 80 percent of his "average current earnings" as defined in the Social Security Act.

The claimant appealed this reduction in his benefit and argued that noncovered wages from his employment with the state of Colorado should be used to calculate his "average current earnings." He also argued that the State disability payments were not subject to offset because Colorado law provided for a "reverse offset" (offset of the State payment due to the receipt of Social Security disability benefits that precludes offset of the Social Security benefit) and because his State disability payment was a private, not public, disability payment.

The ALJ decided that the claimant's wages from the State of Colorado were not covered under Social Security and, therefore, could not be included in the calculation of his "average current earnings." The ALJ also held that Colorado law did not provide for a "reverse offset" for the Public Employees' Retirement Association disability payment because there was no reduction in the State disability payments due to the receipt of Social Security disability benefits. (The ALJ recognized that the State of Colorado does not have a "reverse offset" plan for its workers' compensation payments, which are completely separate from the disability payment the plaintiff received.) And, finally, ALJ decided that the State disability payment received by the claimant is paid pursuant to the laws of the State of Colorado and is, therefore, a public, not private, disability payment subject to offset.

The sole issue here is whether Social Security disability benefits were properly reduced or offset.

On August 31, 1984, the claimant applied for disability insurance benefits. On October 17, 1984, the claimant was found "disabled" with an onset date of August 21, 1984. The claimant's Social Security award letter stated that after a 5-month waiting period his monthly benefit was $568.60. His total family benefit amount was $852.90. Effective October 1984, the claimant began receiving $873.63 in disability payments from the State of Colorado because he had worked as a tax auditor for the State from March 1977 to August 21, 1984.

"A hearing was held on August 20, 1985. The claimant testified that he was employed as a public employee in a political subdivision of the State of Colorado until August 20, 1984, and had stopped paying into Social Security around 1976–1977. He believed that 42 U.S.C. 424a(d) prohibited the Social Security Administration from making a offset from any benefits received from the State of Colorado. The claimant also argued that his "average current monthly earnings" were improperly calculated because his 1983 earnings from the State of Colorado should have been the basis of which to calculate his "average current earnings."

The 1981 Omnibus Budget Reconciliation Act, as incorporated in section 224 of the Social Security Act, provided for the reduction, but not below zero, of Social Security disability benefits payable after August 1981 to individuals who are also receiving disability benefits provided by Federal, State, or local governments (with certain exceptions). The reduction or offset is made in the Social Security disability benefit in the event the total benefits paid under the two disability programs exceed 80 percent of the worker's average monthly earnings (called "average current earnings") prior to the onset of disability. The purpose of this legislative change was to eliminate duplicate benefits that overcompensate some disabled workers, thereby discouraging them from attempting to return to work. Some disabled individuals in the past had more after-tax income as the result of public disability programs than they earned when they were working.

The claimant's average monthly earnings were calculated using the claimant's monthly earnings in his highest consecutive 5 years of earnings covered by Social Security (years 1972 through 1976). The result of the calculation, with the 80 percent limit impose, was $852.00.

The claimant asserted that the calculation of his average monthly earnings was incorrect. He argued that his State of Colorado employment prior to his determination of disability should have been used. 20 CFR 404.408(c)(3) defines "average current earnings" and directs how the same will be derived for purposes of applying a reduction in benefits.[1] More specifically, 20 CFR 404.211(b) and 404.221(b) provide that the methods to either determine average indexed monthly earnings or average monthly wages for purposes of computing a Social Security disability benefit will use earnings creditable to the claimant for Social Security purposes after 1950. Since the claimant's earnings while he was employed with the State of Colorado were not creditable to his Social Security earnings record, his earnings from his State employment could not be used.

Service in the employ of a State, or any political subdivision thereof, or any instrumentality that is wholly owned by

[1] Section 224(a) of the Act, which 20 CFR 404.408(c)(3) implements, provides that "average current earnings" are computed by reference to average monthly wage under section 215(b) of the Act or to wage and self-employment income totals referencing sections 209(a)(1) and 211(b)(1) of the Act. These statutory provisions are concerned strictly with wages and self-employment income derived from employment and self-employment covered by Social Security.

one or more States or political subdivisions, is excluded from Social Security coverage. However, section 218(a) of the Social Security Act (the Act) provides for voluntary agreements for coverage of most employees of State and local governments.[2] All the States have entered into agreements, some having provided coverage for most employees and some having provided coverage for only a few employees. The claimant's specific employment for the State of Colorado was not a part of a "coverage group" as provided in sections 218(b) and (c)(4) of the Act.

In his second argument, the claimant cited 42 U.S.C. 424a(d) as authority that no offset would apply to the disability payments provided by the State of Colorado. That section provides that an offset shall not apply if a State law or plan provided on February 18, 1981, for a reduction in the amount of the State disability payment if the claimant also receives a Social Security disability benefit (called a "reserve offset" law or plan). Colorado does not have such a "reserve offset" law or plan applying to State disability payments. Therefore, the exception in 42 U.S.C. 424a(d) does not apply in this case. And, finally, since the State disability payment received by the claimant is paid pursuant to the laws of the State of Colorado, it is a public, not private, disability payment subject to offset.

In applying applicable law to the claimant's case, the maximum monthly limit for his combined Social Security disability benefit and State disability payment, for purposes of computing the reduction in his Social Security benefit, is 80 percent of his average monthly earnings under covered employment, or $852.00. Since the total of his State disability payment ($873.63) and unreduced Social Security disability benefit ($852.90) equals $1,726.53, his family Social Security disability benefit must be reduced by $852.90 to a benefit amount of zero. That leaves the claimant with the receipt of $873.63 in State disability payments per month. The application of an offset or reduction fulfills the intent of the new law that the claimant not be overcompensated.

However, should the claimant's State disability payments even stop, his Social Security disability benefit would resume. Moreover, if and when the claimant reaches age 65, the calculation of his Social Security retirement benefit will take into account his period of disability granted since August 21, 1984, even though benefits actually received were reduced to zero. At that time, his retirement benefit will be substantially higher than if he had not been found disabled and was able to continue in his noncovered employment with the State of Colorado.

Accordingly, the reduction or offset of benefits in this case is found to have been justified and correct.[3]

[FR Doc. 92-4810 Filed 3-2-92; 8:45 am]

BILLING CODE 4190-29-M

[2] Effective for services performed after July 1, 1991, with a few exceptions, service in the employ of a State, any political subdivision thereof, or any instrumentality of the State or political subdivision wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality is mandatorily covered for Social Security purposes under section 210(a)(7)(F) of the Act.

[3] The claimant subsequently sought review of the Secretary's final decision in the United States District Court for the District of Colorado. On October 8, 1986, that court upheld the Secretary's decision. The claimant appealed the district court's decision to the United States Court of Appeals for the Tenth Circuit which, on November 4, 1987, affirmed the district court's decision in favor of the Secretary.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-040-4111-08]

Draft Egan Resource Management Plan Oil and Gas Leasing Amendment and Supplemental Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of availability of the Draft Egan Resource Management Plan Oil and Gas Leasing Amendment and Supplemental Environmental Impact Statement.

SUMMARY: Notice is given that the Bureau of Land Management (BLM) has released, for a 90-day public review and comment period, the Draft Egan Oil and Gas Leasing Amendment and Supplemental Environmental Impact Statement (DRMPA/SEIS). The DRMPA/SEIS was prepared to bring the approved Egan Resource Management Plan (RMP) into conformance with the Supplemental Program Guidance (SPG) for Oil and Gas Resources (BLM Manual 1624). This plan amendment describes and analyzes the options for management of oil and gas leasing on 3,841,633 acres of public lands in Nye, Lincoln and White Pine counties, Nevada.

DATES: Written comments on the DRMPA/SEIS must be submitted and postmarked no later than June 5, 1992. Oral and/or written comments may also be presented at two public meetings to be held at the following times and locations:

April 21, 1992, 7 p.m., Ely District Office, 702 N. Industrial Way, Ely, Nevada 89301-9408

April 22, 1992, 7 p.m., Holiday Inn, 1000 E. 6th St., Reno Nevada 89510

ADDRESSES: Written comments should be addressed to: Gene L. Drais, Area Manager, Egan Resource Area, Bureau of Land Management, Ely District, HC 33, Box 33500, Ely, NV 89301-9408.

FOR FURTHER INFORMATION CONTACT: Brian C. Amme, Team Leader, Ely District Office, HC 33, Box 33500, Ely, NV 89301-9408; (702) 289-4865.

SUPPLEMENTARY INFORMATION: The DRMPA/SEIS analyzes three alternatives for oil and gas leasing in the Egan Resource Area. The three alternatives are the Continuation of Present Management (No Action) Alternative, the BLM's Preferred Alternative and the Standard Terms and Conditions Alternative. The BLM's Preferred Alternative focuses on balanced management of exploration and development of oil and gas resources while affording appropriate protection of other natural resources to maintain or enhance resource condition objectives as outlined in the Approved Egan RMP Record of Decision. The DRMPA/SEIS also addresses the impacts that oil and gas exploration and development may contribute cumulatively in addition to other actions projected to occur on the public lands within the Egan Resource Area.

Copies of the DRMPA/SEIS are available for review at the following BLM Offices:

Ely District Office, 702 N. Industrial Way, HC 33, Box 33500, Ely, NV 89301-9408.

Nevada State Office, P.O. Box 12000, 850 Harvard Way, Reno, NV 89520-0006.

Copies of the DRMPA/SEIS can also be examined at public libraries in Clark, Elko, Lincoln, Nye, Washoe and White Pine counties, the State Library in Carson City, Nevada and the libraries at the University of Nevada, Las Vegas and the University of Nevada, Reno.

Dated: February 26, 1992.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 92-4837 Filed 3-2-92; 8:45 am]

BILLING CODE 4310-HC-M

[CA-060-4214-11; R 01051, R 0252, CA-7073, CA-7074, CA-7101, CA-7103, CA-7231, CA-7232, CA-7234, CA-7236, CA-7238, CA-7239, R 077520]

Proposed Continuation of Withdrawals; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that certain withdrawals affecting 133,712.39 acres for the All American Canal, Boulder Canyon, Colorado River Storage, Senator Wash Pump Storage, and Yuma Reclamation Projects continue for an additional 20 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing. This notice provides a public comment period.

DATES: Comments should be received by June 1, 1992.

ADDRESSES: Comments should be sent to Area Manager, EL Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243–2298, 619–352–5842.

FOR FURTHER INFORMATION CONTACT: Thomas F. Zale, BLM El Centro Resource Area Office, 619–352–5842.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing withdrawals made by Secretarial Orders of October 24, 1944; October 16, 1931; July 2, 1902; February 19, 1929; January 31, 1903 as modified April 9, 1909 and April 5, 1910; April 12, 1909 as modified April 5, 1910 and February 11, 1920; February 28, 1918; October 19, 1920; July 26, 1929; and June 4, 1930; and Public Land Orders of October 29, 1963; February 10, 1964; September 15, 1969; and Bureau of Land Management Order of July 23, 1947 be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

R 01051

Public Land Order 3262 of October 29, 1963.

San Bernardino Meridian

T. 14 S., R.23 E.:
Sec. 36, SE¼SE¼SE¼.
T. 14½ S., R. 23 E.,
Sec. 1, N½NE¼NE¼, NE¼NW¼NE¼.

R 02052

Public Land Order 3330 of February 10, 1964.

San Bernardino Meridan

T. 6 S., R. 6 E.,
Sec. 34, lot 4, W½, SW¼SE¼.

CA–7073

Bureau of Land Management Order of July 23, 1947.

San Bernardino Meridian

T. 7 S., R. 10 E.,
Sec. 34, E½SW¼.

CA–7074

Secretarial Order of October 24, 1944.

San Bernardino Meridian

T. 8 N., R. 22 E.,
Sec. 18, lots 1, 2, 3, 4, E½W½, E½.

CA–7101

Secretarial Order of October 16, 1931.

San Bernardino Meridian

T. 10 N., R. 22 E.,
Sec. 7, lots 1, 2, 3, 4, E½W½, E½.
T. 3 S., R. 23 E.,
Sec. 15, all;
Sec. 22, all.
T. 9 N., R. 23 E.,
Sec. 30, lot 2, NE¼SW¼SE¼SW¼, NW¼SE¼SE¼SW¼;
Sec. 31, N½NE¼NE¼, NW¼NE¼.

CA–7103

Secretarial Order of February 19, 1929.

San Bernardino Meridian

T. 5 S., R. 23 E.,
Sec. 14, E½;
Sec. 27, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 28, lots 1, 2, 3, 4, W½E½, W½;
Sec. 33, lots 1, 2, 3, 4, 5;
Sec. 34, NW¼NW¼.

CA–7231

Secretarial Order of January 31, 1903 as modified by Secretarial Orders of April 9, 1909 and April 5, 1910.

San Bernardino Meridian

T. 13 S., R. 16 E.,
Sec. 1, lots 2, 3, 6, 7, 10, 15, 16, 17, 24;
Sec. 5, lots 15, 25;
Sec. 9, W½NW¼, SE¼SW¼;
Sec. 21, SE¼SE¼;
Sec. 34, SE¼NE¼;
Sec. 35, SW¼SW¼.
T. 14 S., R. 16 E.,
Sec. 2, lot 4, SE¼SW¼;
Sec. 11, lot 3;
Sec. 23, E½SW¼, W½SE¼;
Sec. 26, E½W½;
Sec. 35, E½W½.
T. 15 S., R. 16 E.,
Sec. 2, lot 3, SE¼NW¼, E½SW¼;
Sec. 11, lot 6, NE¼NW¼;
Sec. 23, SE¼SE¼;
Sec. 25, SW¼SW¼SW¼;
Sec. 26, E½NE¼.
T. 16 S., R. 16 E.,
Sec. 1, lot 11;
Sec. 12, E½NW¼, SW¼, SE¼;
Sec. 13, lots 1, 14, SW¼SE¼;
Sec. 24, W½W½NE¼;
Sec. 25, NE¼NW¼.
T. 17 S., R. 16 E.,
Sec. 1, SE¼;
Sec. 11, lot 17;
Sec. 12, lots 1, 2, 3, 4, N½, N½S½;
Sec. 13, lot 1;
Sec. 14, lot 1.
T. 14 S., R. 17 E.,
Sec. 1, SW¼, S½NW¼, SW¼SE¼;
Sec. 2, lots 3, 4, S½NE¼, NE¼SE¼;
Sec. 12, E½NW¼, NE¼, N½SE¼, SE¼SE¼.
T. 16 S., R. 17 E.,
Sec. 31, S½SE¼, SE¼SW¼;
Sec. 32, S½S½, S½N½SW¼.
T. 17 S., R. 17 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, lots 5, 6, E½SW¼, E½;
Sec. 7, lots 3, 4, 5, 6, 7, 8, 9, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 8, lots 1, 2, 3, 4, N½S½, N½;
Sec. 9, lots 1, 2, 3, 4, N½;
Sec. 10, lots 1, 2, 3, 4, N½;
Sec. 11, lots 1, 2, 3, 4, N½;
Sec. 12, lots 1, 2, 3, 4, N½N½.
T. 15 S., R. 18 E.,
Sec. 3, lots 5, 6, SE¼, SW¼NE¼, NE¼SW¼, S½NW¼;
Sec. 4, lot 3;
Sec. 10, N½NE¼, SE¼NE¼;
Sec. 11, SW¼SE¼, SW¼, SW¼NW¼, W½SE¼NW¼, S½NW¼NW¼;
Sec. 13, W½SW¼, SE¼SW¼;
Sec. 14, N½SE¼, SE¼SE¼, NE¼, NE¼NW¼;
Sec. 24, E½SE¼SE¼, N½SE¼, S½NE¼, NW¼NE¼, N½NW¼, SE¼NW¼.
T. 17 S., R. 18 E.,
Sec. 1, lots 3, 4, 5, N½, N½S½, SW¼SW¼;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, lots 3, 4, 5, 6, E½, E½W½;
Sec. 7, lots 3, 4, 5, 6, 7, N½NE¼, NE¼NW¼;
Sec. 8, lots 1, 2, 3, 4, N½N½;
Sec. 9, lots 1, 2, 3, 4;
Sec. 10, lots 1, 2, 3, 4;
Sec. 11, lots 1, 2, 3, 4;
Sec. 12, lots 1 and 2.
T. 16 S., R. 19 E.,
Sec. 3, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, lots 3, 4, 5, SE¼NE¼;
Sec. 10, NE¼NE¼;
Sec. 11, all;
Sec. 13, SW¼, SW¼NW¼;
Sec. 14, E½NE¼, NE¼NW¼NE¼;
Sec. 24, E½, E½NW¼;
Sec. 25, NE¼NE¼NE¼, S½;
Sec. 26, SE¼;
Sec. 31, E½;
Sec. 32, all;
Sec. 35, E½.
T. 17 S., R. 19 E.,
Sec. 1, lots 1, 2, 3, 4, N¼N½, S½NW¼;
Sec. 2, lots 1, 2, 3, 4, N½;
Sec. 3, lots 1, 2, 3, 4, N½;
Sec. 4, lots 1, 2, 3, 4, N½;
Sec. 5, lots 1, 2, 3, 4, N½; N½S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, NE¼, E½NW¼, NE¼SW¼, N½SE¼.

CA–7232

Secretarial Order of April 12, 1909 as modified by Secretarial Orders of April 5, 1910 and February 11, 1920.

San Bernardino Meridian

T. 9 S., R. 12 E.,
Sec. 30, portions of lots 1 and 2 of NW¼ south and west of State Highway 111, lots 1 and 2 of SW¼, portions of N½ SE¼ south and west of State Highway 111, S½SE¼;
Sec. 32, all;
Sec. 34, all.
T. 10 S., R. 12 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, SE¼;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all.
T. 12 S., R. 15 E.,
Sec. 2, SW¼SW¼.

CA–7234

Secretarial Order of February 28, 1918.

San Bernardino Meridian

T. 15 S., R. 19 E.,
Sec. 19, lots 3, 4, SE¼SW, SW¼SW¼SE¼;
Sec. 29, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 30, NE¼SE¼, NE¼, NE¼NW¼;
Sec. 32, NE¼NW¼, N½NE¼, SE¼NE¼, NE¼SW¼NE¼;
Sec. 33, SW¼NW¼, N½SW¼, SE¼SW¼, W½NW¼SE¼, S½SE¼.

CA–7235

Secretarial Order of March 15, 1919.

San Bernardino Meridian

T. 16 S., R. 20 E.,
Sec. 19, SW¼SW¼;
Sec. 30, NW¼NW¼, S½NW¼, SW¼, W½SW¼SE¼;
Sec. 31, all;
Sec. 32, all;
Sec. 36, all;
Sec. 52, all;
Sec. 54, all;
Sec. 55, all;
Sec. 60, lots 1, 2, 3, 4, N½N½.
T. 17 S., R. 20 E.,
Sec. 5, lots 1, 2, 3, 4, N½NW¼;
Sec. 6, lots 1, 2, 3, 4, N½N½.
T. 16 S., R. 21 E.,
Sec. 31, lots 1, 2, 3, 4, 5, 6, 7, NE¼, E½ NW¼, NE¼SW¼, N½SE¼;
Sec. 32, lots 3, 4, 5, 6, 7, 8, 9, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 33, lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20;
Sec. 34, lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, W½NE¼, NW¼, N½SW¼, NW¼SE¼.

CA–7236

Secretarial Order of November 19, 1920.

San Bernardino Meridian

T. 5 S., R. 7 E.,
Sec. 2, N½SW¼, SE¼SW¼, SE¼.
T. 6 S., R. 7 E.,
Sec. 20, NE¼NW¼, SE¼SW¼, SW¼ SE¼;
Sec. 28, W½W½, SE¼SW¼.
T. 5 S., R. 8 E.,
Sec. 18, E½SE¼.
T. 6 S., R. 8 E.,
Sec. 2, E½NW¼SE¼, NE¼SE¼, E½SE¼ SE¼;
Sec. 12, W½.
T. 7 S., R. 8 E.,
Sec. 32, NE¼NE¼, E½NW¼NE¼, N½ SE¼NE¼, SE¼SE¼NE¼.
T. 6 S., R. 9 E.,
Sec. 18, lots 3, 4;
Sec. 28, SW¼SW¼;
Sec. 34, SW¼SW¼.
T. 7 S., R. 9 E.,
Sec. 28, SE¼;
Sec. 32, S½NE¼, SE¼.
T. 8 S., R. 9 E.,
Sec. 16, all;
Sec. 36, all.
T. 9 S., R. 9 E.
Sec. 10, NE¼.
T. 8 S., R. 10 E.,
Sec. 2, portions of unnumbered lots of NW¼ south and west of State Highway 111, portions of SW¼ south and west of State Highway 111, portions of SE¼ south and west of State Highway 111;
Sec. 4, all;
Sec. 6, lots 1 and 2 of SW¼, SE¼, N½;
Sec. 8, all;
Sec. 10, all;
Sec. 12, portions of W½NW¼ south and west of State Highway 111, portions of W½SW¼ south and west of State Highway 111, portions of NE¼SW¼ south and west of State Highway 111;
Sec. 14, W½NE¼, SE¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 16, E½, W½NW¼, SE¼NW¼, SW¼;
Sec. 18, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 32, lots 1 and 2 of SE¼, N½, SW¼, N½SE¼;
Sec. 34, lots 1, 2, 3, 4, N½, N½S½;
Sec. 36, lots 1, 2, 3, 4, N½, N½S½.
T. 9 S., R. 10 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, lots 1 and 2 or NW¼, lots 1 and 2 of SW¼, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, N½;
Sec. 16, all;
Sec. 18, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 32, all;
Sec. 34, all;
Sec. 36, all.
T. 10 S., R. 10 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all;
Sec. 24, all.
T. 8 S., R. 11 E.,
Sec. 18, portions of S½ of lot 2 south and west of State Highway 111;
Sec. 20, portions of W½SW¼ south and west of State Highway 111;
Sec. 28, W½, SE¼;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 32, all.
T. 9 S., R. 11 E.,
Sec. 4, SW¼SW¼;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, SE¼;
Sec. 7, SW¼;
Sec. 8, all;
Sec. 10, portions of SW¼NE¼ south and west of State Highway 111, S½NW¼, SW¼, portions of N½SE¼ south and west of State Highway 111, S½SE¼;
Sec. 14, portions of N½NW¼ south and west of State Highway 111, S½NW¼, SW¼, portions of the SE¼ south and west of State Highway 111;
Sec. 18, all;
Sec. 19, all;
Sec. 20, all;
Sec. 22, all;
Sec. 24, portions of SW¼NW¼NW¼ south and west of State Highway 111, portions of S½NW¼ south and west of State Highway 111, portions of SW¼ south and west of State Highway 111, portions of W½SE¼ south and west of State Highway 111, portions of SE¼SE¼ south and west of State Highway 111;
Sec. 26, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all.
T. 10 S., R. 11 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, SE¼;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all;
Sec. 18, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 32, all;
Sec. 34, all;
Sec. 36, all.

T. 11 S., R. 11 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW, lots 1 and 2 of SW¼, SE¼;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all;
Sec. 16, NE¼, E½NW¼, N½SE¼, SE¼ SE¼;
Sec. 18, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 32, all;
Sec. 34, all.
T. 12 S., R. 11 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, N½SW¼, SW¼SW¼;
Sec. 12, all.
T. 11 S., R. 12 E.,
Sec. 2, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, SE¼;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all;
Sec. 16, all;
Sec. 18, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, E½;
Sec. 20, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 30, lots 1 and 2 of NW¼, lots 1 and 2, E½;
Sec. 32, all;
Sec. 34, all.
T. 12 S., R. 12 E.,
Sec. 2, lots 3, 4, 5, 6, S½N½, SW¼;
Sec. 4, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, S½;
Sec. 6, lots 1 and 2 of NE¼, lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, SE¼.
T. 15 S., R. 12 E.,
Sec. 31, N½N½SE¼, S½S½NE¼.
T. 16 S., R. 12 E.,
Sec. 29, S½SE;
Sec. 33, SW¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 34, NW¼SW¼.
T. 14 S., R. 13 E.,
Sec. 7, NE¼SE¼;
Sec. 32, lot 1, SE¼SE¼;
Sec. 33, N½SW¼, NW¼NW¼, SE¼ NW¼.
T. 17 S., R. 13 E.,
Sec. 17, SW¼NW¼.

CA–7238

Secretarial Order of July 26, 1929.

San Bernardino Meridian

T. 15 S., R. 23 E.,
Sec. 21, all;
Sec. 22, S½.

CA–7239

Secretarial Order of June 4, 1930.

San Bernardino Meridian

T. 1 S., R. 24 E.,
Sec. 32, lots 12, 14, 15, 18, W½NW¼.
T. 7 S., R. 10 E.,
Sec. 32, S½N½, S½;
Sec. 34, W½SW¼.
T. 11 S., R. 15 E.,
Sec. 6, lot 3;
Sec. 8, N½NE¼;
Sec. 18, SE¼SE¼;
Sec. 20, SW¼NW¼;
Sec. 22, all;
Sec. 26, all;
Sec. 28, SW¼NW¼.
T. 12 S., R. 16 E.,
Sec. 6, lots 9, 14, 15, 16, 17, 18;
Sec. 18 E½;
Sec. 20, all;
Sec. 21 SW¼SW¼;
Sec. 27, S½SW¼, NW¼SW¼;
Sec. 28, S½, S½NE¼, SW¼NW¼NE¼, NW¼;
Sec. 29, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 30, lots 7, 11, 12, 13, 14, E½SW¼;
Sec. 31, lots 3, 4, 5, 6, E½NW¼;
Sec. 34, E½NW¼, SE¼NW¼;
Sec. 35, lots SW¼.
T. 13 S., R. 17 E.,
Sec. 5, lots SW¼SW¼;
Sec. 6, lots 14, 15, 16, 21, 22, 23, 24, 25, 27, 28, 29, N½SE¼, SE¼SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, SW¼SW¼NE¼, NW¼, NE¼SW¼, NE¼SE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 17, N½NE¼, SE¼NE¼;
Sec. 21, NE¼, NE¼NW¼, E½SE¼, NE¼NW¼SE¼;
Sec. 22, S½SW¼, NW¼SW¼;
Sec. 26, SW¼SW¼SW¼;
Sec. 27, SW¼NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 34, NE¼NE¼, E½SE¼NE¼;
Sec. 35, W½NW¼, SE¼NW¼, N½SW¼, SE¼SW¼, SE¼.
T. 14 S., R. 18 E.,
Sec. 7, lots 2, 3, 4, SE¼SW¼;
Sec. 17, SW¼SW¼SW¼;
Sec. 18, lot 1, SE¼, NE¼NE¼SW¼, SW¼NE¼, E½NW¼;
Sec. 19, E½SE¼NE¼, NE¼NE¼;
Sec. 20, SE¼SW¼, N½SW¼, W½NW¼ SE¼, SW¼SE¼, S½NW¼, NW¼NW¼;
Sec. 28, SW¼, SW¼NW¼;
Sec. 29, NE¼SE¼, NE¼;
Sec. 33, SE¼SE¼, N½SE, S½NE¼, NW¼NE¼, E½NW¼;
Sec. 34, SW¼SW¼, W½NW¼SW¼.

R 07752

Public Land Order 4690 of September 15, 1969.

San Bernardino Meridian

T. 7 S., R. 7 E.,
Sec. 10, NE¼NE¼, NE¼NW¼NE¼, E½SE¼NE¼, E½NE¼SE¼.

The areas described contain 133,712.39 acres in Imperial, Riverside and San Bernardino Counties.

The purpose of the withdrawals are to protect the All American Canal, Boulder Canyon, Colorado River Storage, Senator Wash Pump Storage, and Yuma Reclamation Projects. The withdrawals segregate the land from settlement, sale, location, and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Area Manager in the El Centro Resource Area Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: February 26, 1992.

Ron Fox,

Acting State Director.

[FR Doc. 92–4838 Filed 3–2–92; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

North American Wetlands Conservation Council; Availability of Document

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that a final document, U.S. Grant Application Instructions Package For Funding Consideration Through the North American Wetlands Conservation Council Under Authority of North American Wetlands Conservation Act is available.

DATES: Proposals may be submitted at any time. FY 1993 proposals will be accepted through August 1, 1992.

SUPPLEMENTARY INFORMATION: This document provides the schedules, review criteria, definitions, description of information required in the proposal, and a format for proposals submitted for Fiscal Year 1993 funding. This document was prepared to comply with the "North American Wetlands Conservation Act." The Act established a North American Wetlands Council. This Federal-State-Private body annually recommends wetland conservation projects to the Migratory Bird Conservation Commission. These project recommendations will be selected from proposals made in accordance with this document. Proposals from State and private sponsors require a minimum of 50 percent non-Federal matching funds.

ADDRESSES: Copies of this document can be obtained by contacting the U.S. Fish and Wildlife Service, room 130, 4401 N. Fairfax Drive, Arlington, Virginia 22203 during normal business hours (7:45 a.m.–4:15 p.m.) in writing or by phone.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Streeter, Coordinator, North American Wetlands Conservation Council, Arlington Square Building, room 340, U.S. Fish and Wildlife Service, Department of the Interior, Arlington, VA 22203, telephone (703) 358–1784.

Dated: February 13, 1992.

Richard N. Smith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–4922 Filed 3–2–92; 8:45 am]

BILLING CODE 4310–55–M

Klamath Fishery Management Council, Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 12 noon to 5:30 p.m. on Tuesday, March 3; from 8 a.m. to 5:30 p.m. on Wednesday, March 4; and from 8 a.m. to 3 p.m. on Thursday, March 5, 1992.

PLACE: The meeting will be held at the Red Lion Inn, 1929 4th Street, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main, suite 212), Yreka, California 9609–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639). On March 3, the Council will hear technical reports on 1991 spring and fall run chinook salmon escapements and projections for 1992 stock abundance. The 1992 environmental conditions and 1992 harvest rates for fall chinook salmon will also be discussed by the Council.

On the morning of March 4, the Council will discuss the Pacific Fisheries Management Council's (PFMC) management plan Issue 2, for modification of the Klamath fall chinook salmon escapement goal. The Council will also discuss the Klamath Fishery Management Council's long-term harvest management plan in an attempt to reach consensus on the final version and the ensuring publication process. The Council will discuss development of a long-term harvest allocation agreement during the afternoon session. On March 5, the Council will hear a technical report on the application of Genetic Stock Identification techniques to Klamath stocks and hear reports from the ad hoc committees for ocean and in-river sport harvesters. The Council will make recommendations to the PFMC for 1992 ocean salmon management and management of other ocean fisheries incidentally taking salmon. The council will make recommendations to Tribes and the State of California for in-river salmon management options for 1992. Public comment will be received during the morning and afternoon sessions each day of the meeting.

Dated: February 21, 1992.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–4843 Filed 3–2–92; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 19, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by March 18, 1992.

Carol D. Shull,

Chief of Registration, National Register.

Georgia

Camden County

McIntosh, John Houstoun, Sugarhouse, Ga. Spur 40, 6 mi. N of St. Mary's, St. Marys, 92000167

Kentucky

Estill County

Riverview Hotel, Main St., Irvine, 92000171

Jefferson County

Belleview [Louisville and Jefferson County MRA], 6600 Upper River Rd., Harrods Creek, 92000158

Logan County

Longview Farm House, Bores Rd., Adairville vicinity, 92000170

Michigan

Houghton County

Redridge Steel and Log Dams, N of Co. Rt. 557 at Salmon Trout R., Stanton Township, Redridge, 92000166

Oakland County

Pleasant Ridge Historic District, Roughly bounded by Willington Rd., Woodward Ave., Ferndale and Ridge Rd., Pleasant Ridge, 92000165

Mississippi

Lee County

Goodlett, R. F., House [Tupelo MPS], 219 Broadway, Tupelo, 92000162

Lee County Courthouse [Tupelo MPS], Court St. between Spring and Broadway, Tupelo, 92000161

Mill Village Historic District [Tupelo MPS], Roughly bounded by the Illinois Central RR and St. Louis—San Francisco RR tracks, Chestnut and Green Sts., Tupelo, 92000159

North Church Primary School [Tupelo MPS], Jct. of Church and Jackson St., SW corner, Tupelo, 92000164

South Church Street Historic District [Tupelo MPS], 602—713 S. Church St., Tupelo, 92000160

Spight, F. L., House [Tupelo MPS], 363 N. Broadway, Tupelo, 92000163

North Carolina

Guilford County

Bennett College Historic District [Greensboro MPS], Roughly bounded by E. Washington, Bennett and Gorrell Sts., Greensboro, 92000179

Lyndon Street Townhouses [Greensboro MPS], 195—201 Lyndon St., Greensboro, 92000178

McIver, Charles D., School, Former [Greensboro MPS], 617 W. Lee St., Greensboro, 92000177

Richard, L., Memorial Hospital, Former [Greensboro MPS], 603 S. Benbow Rd., Greensboro, 92000180

White Oak New Town Historic District [Greensboro MPS], 2400—2418 N. Church, 2312—2509 Spruce, 2310—2503 Hubbard and 2401—2503 Cypress Sts., Greensboro, 92000176

Moore County

Carthage Historic District, Roughly, McReynolds St. between Barrett St. and Glendons Rd. and parts of Barrett, Ray Pinecrest and Brooklyn Sts., Carthage, 92000182

Pitt County

College View Historic District, Roughly bounded by Holly, Eastern, E. First and E. Fifth Sts., Greenville, 92000181

Richmond County

Main Street Commercial Historic District, 2—105 Main St., Hamlet, 92000169

Ohio

Cuyahoga County

Annis, John M., House, 9271 State Rd., North Royalton, 92000174

Franklin County

Columbus Gallery of Fine Arts, 480 E. Broad St., Columbus, 92000173

Ottawa County

Foster—Gram House, Langrum Rd., South Bass Island, Put-In-Bay vicinity, 92000175

Tuscarawas County

Pershing, Christian, Barn, Off OH 39 W of Dover, Dover vicinity, 92000172

Wisconsin

Green Lake County

Wisconsin Power and Light Berlin Power Plant, 142 Water St., Berlin, 92000157

Walworth County

Bradley Knitting Company, 902 Wisconsin St., Delavan, 92000168

[FR Doc. 92-4854 Filed 3-2-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-293 (Sub-No. 2X)]

Detroit & Mackinac Railway Co.—Abandonment Exemption—in Otsego and Cheboygan Counties, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts Detroit & Mackinac Railway Company from the prior approval requirements of 49 U.S.C. 10903-10904 to abandon its 47-mile rail line between milepost 121.0, near Gaylord, in Otsego County, MI, and milepost 168.0, near Cheboygan, in Cheboygan County, MI, and the Cheboygan Yard tracks, subject to environmental, public use, trail use/rail banking, and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, the exemption will be effective on April 2, 1992. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) msut be filed by March 13, 1992, petitions to stay must be filed by March 18, 1992, and petitions for reopening must be filed by March 30, 1992. Requests for a public use condition must be filed by March 13, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-293 (Sub-No. 2X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. (2) Petitioner's representatives: Christopher Eric Hagerup, Weiner, McCaffrey, Brodsky, Kaplan & Levin, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660, (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for hearing impared is available through TDD services (202) 927-5721.)

Decided: February 25, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners, Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4868 Filed 3-2-92; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9622(d)(2), notice is hereby given that on February 12, 1992 a proposed Consent Decree in *United States* v. *Colorado & Eastern Railroad Company, Inc.,* Civil Action No. 89-C-1166, was lodged with the United States District Court for the District of Colorado. The Consent Decree requires defendant Colorado & Eastern Railroad Company, Inc. ("CERC") to pay $100,000 in past costs incurred by the United States in remediating the "Woodbury Chemical" Superfund Site in Commerce City, Colorado.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Colorado & Eastern Railroad Company, Inc.,* DOJ Ref. 90-11-2-503.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 633 17th Street, suite 1600, Denver, Colorado 80202 and at the Region VIII office of the United States Enviromental Protection Agency, 999 18th Street, Denver, Colorado 80202. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004, (202) 347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $2.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-4840 Filed 3-2-92; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-16]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATES: March 24, 1992, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Federal Building 10B, room 625, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space research and technology activities in the Office of Aeronautics and Space Technology (OAST). The Committee, chaired by Dr. Joseph F. Shea, is composed of 17 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Committee members and other participants).

TYPE OF MEETING: Open.

AGENDA:

March 24, 1992

8:30 a.m.—Welcome.
8:45 a.m.—Review of Planned Discussion.
9 a.m.—Budget Review.
9:30 a.m.—Status of Fiscal Year 1993 Space Research & Technology Program.
10:45 a.m.—Preliminary Fiscal Year 1994 Planning for the Space Research & Technology Program.
11:45 a.m.—General Discussion.
1 p.m.—Status of Ad Hoc Studies.
2 p.m.—Reorganization of the Aerospace Research & Technology Subcommittee.
3:15 p.m.—Space Technology Interdependency Group Status and Plans.
4:15 p.m.—Review SSTAC Schedule & Status of SSTAC Chair.
4:30 p.m.—Adjourn.

Dated: February 26, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-4860 Filed 3-2-92; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 41st meeting on Thursday and Friday, March 12 and 13, 1992, 8:30 a.m.–5 p.m., room P-110, 7920 Norfolk Avenue, Bethesda, MD. The entire meeting will be open to public attendance. Notice of this meeting was previously published in the **Federal Register** on Monday, February 24, 1992 (57 FR 6337).

The agenda for the subject meeting shall be as follows:

A. Continue deliberations to investigate the feasibility of applying a systems approach to the analysis of the short and mid-range high-level waste program technical milestones.

B. Consider comments from a representative of Virginia Power Company on a systems approach to high-level waste disposal.

C. Presentation by representatives of the NRC's Office of Nuclear Regulatory Research and other interested parties on the High-Level Radioactive Waste Program Plan.

D. Consider lessons learned from the decommissioning of the Pathfinder nuclear power plant (tentative).

E. Consider results of a special review of NRC regulations to determine whether regulatory burdens can be reduced without in any way reducing the protection for public health and safety and the common defense and security.

F. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: February 26, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-4881 Filed 3-2-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-458]

Gulf States Utilities Co.; River Bend Station, Unit 1, Exemption

I.

On November 20, 1985, the Commission issued Facility Operating License No. NPF-47 to Gulf States Utilities Company (the licensee) for River Bend Station, Unit 1. This license provided, among other things, that the facility is subject to all rules, regulations, and orders of the Commission.

II.

Section 26.29(b) of title 10 of the Code of Federal Regulations restricts the disclosure of personal information collected and maintained as required by the other sections of part 26, Fitness for Duty Programs.

By letter dated January 28, 1992, the licensee requested an exemption from the requirements of 10 CFR 26.29(b) in order to provide, in a confidential manner, information concerning the results of a former employee's drug test results to the Louisiana Office of Employment Security.

III.

The NRC staff has reviewed the licensee's request for a one-time exemption from 10 CFR 26.29(b) in order to facilitate appeals before the Louisiana Office of Employment Security. The information provided to the State agency would be proffered as confidential. This exemption would also encompass the possible testimony of licensee personnel before the Louisiana Office of Employment Security concerning the specific case addressed by the letter dated January 28, 1992.

Based upon its review, the staff finds that the licensee has shown good cause for the requested one-time exemption from 10 CFR 26.29(b). Therfore, the exemption to allow the licensee to provide, in a confidential manner, information concerning a former employee's drug test results to the Louisiana Office of Employment Sercurity is acceptable.

IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.6, this exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

Accordingly, the Commission hereby grants an exemption as described in Section III above the 10 CFR 26.29(b) to allow the licensee to provide, in a confidential manner, information concerning a former employee's drug test results to the Louisiana Office of Employment Security.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the Exemption will have no significant impact on the environment (57 FR 6338).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 26th day of February 1992.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4880 Filed 3-2-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, March 12, 1992, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415, (202) 606-1500.

Dated: February 25, 1992.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR DOC. 92-4808 Filed 3-2-92; 8:45 am]

BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Assessment of Penalties for Failure to Provide Required Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Statement of policy.

SUMMARY: Section 4071 of the Employee Retirement Income Security Act of 1974 authorizes the Pension Benefit Guaranty Corporation ("PBGC") to assess a penalty against any person that fails to provide a notice or other material information required under various statutory provisions, or regulations prescribed thereunder, within the applicable, specified time limit. The penalty, which is payable to the PBGC, may not exceed $1,000 for each day the failure continues. The PBGC is publishing this statement of policy to advise the public of the manner in which the agency intends to exercise its authority, pursuant to section 4071, to assess penalties for failures to comply with requirements to provide the agency with material information. This statement informs the public of the types of factors and circumstances that the PBGC will consider in penalty assessment decisionmaking. It also describes the informal processes that agency staff will be utilizing in determining to assess penalties for certain failures and in reviewing the amounts assessed.

DATES: The policy set forth herein takes effect on March 3, 1992.

FOR FURTHER INFORMATION CONTACT: Israel Goldowitz, Assistant General Counsel, Office of the General Counsel, at 202-778-8886 (202-778-8859 for TTY and TDD). For a copy of material included in an agency manual, contact the Disclosure Officer, Communications and Public Affairs Department, the Pension Benefit Guaranty Corporation, room 7104, 2020 K Street, NW., Washington, DC 20006; 202-778-8839 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. 1001 *et seq.*). In 1986 and 1987, Congress significantly modified ERISA by enacting amendments aimed at improving the protection of pension benefits and controlling the costs of the insurance program. These reform measures included new and revised information requirements. They also enhanced the agency's enforcement authority.

Among other things, in section 9314(c) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203) (as subsequently clarified by section 7881(i)(3)(B) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239)), Congress added section 4071 to Title IV of ERISA (29 U.S.C. 1371). Section 4071, "Penalty for Failure to Timely Provide Required Information," authorizes the PBGC to assess penalties, as follows:

> The corporation may assess a penalty payable to the corporation against any person who fails to provide any notice or other material information required under this subtitle [D], subtitle A, B, or C, [or] section 302(f)(4) or 307(e), or any regulations prescribed under any such subtitle or such section within the applicable time limit specified therein. Such penalty shall not exceed $1,000 for each day for which such failure continues.

Implementation of the 1986 and 1987 amendments to Title IV of ERISA necessitated major programmatic changes. In instituting those changes, the PBGC has been considering various enforcement issues. That process has resulted in (among other things) the initial formulation of agency policy on assessing penalties against persons that fail to comply with information submission requirements, other than those prescribed with respect to the payment of premimums.

In this area, the objectives of the agency's policy are to deter violations of and secure compliance with regulatory requirements (in both specific matters and generally), as well as to recover at least some of the administrative and other costs of not receiving, in a timely manner, information to which the agency is entitled. In essence, by increasing the potential costs of noncompliance to persons required to provide the PBGC with information, the agency hopes to reduce the incidence and length of compliance failures and, hence, the adverse effects of such failures on the agency's effectiveness in carrying out the purposes of Title IV of ERISA, as set forth in section 4002(a) (29 U.S.C. 1302(a)).

The PBGC emphasizes that the policy stated herein is the first effort at exercising the discretionary authority provided by section 4071 to achieve this goal with respect to failures to comply with certain regulatory requirements. The agency anticipates that, as it gains experience with penalty assessment, its policy will evolve. Moreover, while persons subject to ERISA and PBGC regulations are presumed to know their

provisions, the PBGC also is furthering its deterrence objective by indicating, where appropriate, the potential for penalty assessment in its instructions for filing notices and in other communications with persons responsible for submitting material information. Finally, the agency notes that a decision to assess a penalty pursuant to section 4071 does not preclude other enforcement or remedial action by the PBGC.

To assist its staff in applying agency policy to particular failures to provide the PBGC with material information (including any notice), the PBGC has added "Assessment of Penalties for Failure to Timely Provide Required Information" (the "operating policy issuance") to the PBGC Operating Policy Manual (included as Chapter 8, Section 1).[1] When a person does not comply with a requirement to submit such information within a time limit that ends on or after publication of this statement in the **Federal Register**, the operating policy issuance will guide case-by-case staff determinations about the amount of any penalty, including whether the penalty should continue to accrue and whether, upon review at the request of a person against which a penalty is assessed, the amount assessed should be reduced.[2]

The agency still is considering policy issues in the premium area. Therefore, the operating policy issuance does not, at the current time, apply to matters addressed under section 4007 of ERISA (29 U.S.C. 1307) and part 2610 of the regulations (29 CFR part 2610). The PBGC also may assess a penalty, after considering the factors set forth below, in other situations to which the operating policy issuance does not apply. In particular, the PBGC may decide that a penalty should be assessed for an ongoing failure that began before today's publication.

Agency policy is to structure penalties to encourage compliance with regulatory requirements. Therefore, when the receipt of overdue material information still would assist the agency in carry out the purposes of Title IV, the PBGC will consider making the penalty a charge that continues to accrue, but it will consider reducting the penalty upon review if prompt action has been taken to end the failure. The agency also notes that the objective of deterring violations of regulatory requirements and the fact that the PBGC incurs losses due to delays and omissions in providing information (including administrative costs) may make assessment of a penalty appropriate even when the PBGC no longer needs to obtain such information from the person that committed the violation or when the information is submitted after the applicable time limit has passed.

Factors and Circumstances To Be Considered

The agency believes that the following factors are relevant in determining the amount of a penalty to be assessed pursuant to section 4071 of ERISA:

(1) The extent of the failure,

(2) The financial or administrative harm to the PBGC's program,

(3) The willfulness of the failure, and

(4) The likelihood that the penalty will be paid.

These factors are to be considered in the context of the facts and circumstances of a particular case. Thus, for example, in evaluating the extent of a failure to notify the PBGC of a reportable event in accordance with section 4043 of ERISA (29 U.S.C. 1343) as implemented by part 2615 of the regulations (29 CFR part 2615), the PBGC will consider whether or not a plan administrator submitted any notice within the 30-day time period and, if so, what required information was and was not included in that notice (see, *e.g.*, § 2615.3 of the regulations). In addition, as regards harm to the program, the PBGC has developed guidelines for determining the amount of a penalty to be assessed for failure to file a notice certifying distribution of plan assets in a standard termination (see subsection (b)(3)(B) of section 4041 of ERISA (29 U.S.C. 1341)) or a notice of a reportable event.[3] and the agency may revise these guidelines as it gains experience with assessing penalties for various compliance failures.

The PBGC believes that a person assessed a penalty should have an opportunity to provide the agency with information which tends to show that, in view of the facts and circumstances of the case, the amount assessed on the basis of the above factors should be reduced. Therefore, the agency will provide an opportunity for administrative review of the amount of a penalty. If and to the extent the agency concludes, upon such review, that mitigating facts and circumstances warrant such action, PBGC policy is to reduce the amount initially assessed (including possible elimination of any penalty). The agency views information tending to show that events outside a person's control that could not reasonably have been anticipated prevented compliance as well as action to end the failure as particularly relevant in determining whether to affirm or reduce the amount of a penalty.

Assessment Process

The PBGC has decided to channel the penalty assessment function (including review of the amounts initially assessed) according to applicable assignments of responsibilities, while also taking into account administrative efficiency and effectiveness and seeking to assess penalties consistently. These assignments are set forth in the mission and functions statements issued by the Executive Director and included (along with organization charts) in the PBGC Directives Manual as Section 30–1 of Part GA (General Administration).

Until recently, this policy decision meant that the organizational unit with primary responsibility generally would have been the Case Operations and Assistance Division ("COAD") of the Insurance Operations Department

[1] As provided in Part 2603 of the PBGC's regulations (29 CFR part 2603), this issuance (as well as other organizational and administrative staff manual materials referred to below) is available to the public. Anyone desiring a copy of such material should contact the agency's Disclosure Officer, at the address or phone number listed at the beginning of this document.

[2] These determinations are not subject to part 2606 of the PBGC's regulations (29 CFR part 2606).

[3] These guidelines, which are appended to the operating policy issuance, are as follows:

1. Failure to file a post-distribution certification in a standard termination. Within 30 days after the final distribution of assets is completed in a standard termination, the plan administrator must send a notice to the PBGC certifying that plan assets have been distributed in accordance with the law (see PBGC Form 501). Not receiving these certifications causes the PBGC to expend both clerical and professional time determining if a distribution has occurred and obtaining the required documentation. The total penalty assessed should not exceed the lesser of $50 a day until the certification is submitted or $200 times the number of participants entitled to a distribution in the termination.

2. Failure to file a notice of a reportable event. Except where expressly waived by 29 CFR part 2615, the plan administrator must file a notice of a reportable event in accordance with 29 CFR part 2615 within 30 days of the date the plan administrator knows or has reason to know of the occurrence of the event. Deterring violations of 29 CFR part 2615 is very important because when information is obtained can greatly affect the PBGC's ability to minimize its losses and those of participants. Consequently, the PBGC must encourage compliance by exercising its authority to assess penalties at up to the statutory maximum level (*i.e.*, up to and including $1000 a day for each day the failure continues after the 30-day time limit). However, unless theres are indications that the PBGC's or participants' potential losses attributable to the failure exceed the total of any daily penalty, the amount of this penalty should not exceed $10,000.

(Note: This guidance only applies when there is no submission within the 30-day time limit.)

("IOD").[4] However, the PBGC currently is reorganizing certain agency responsibilities.

At the end of 1990, the PBGC established the Corporate Finance and Negotiations Department ("CFND") in order, among other things, to provide the PBGC's Chief Negotiator with staff support in the analysis of significant potential demands on the pension insurance program and to coordinate policy, legal, and operational elements of the PBGC's responses to major financial events. The agency has decided that when the submission involves a matter with respect to which CFND is responsible for providing staff support, that department will have primary responsibility for the penalty assessment function.[5]

In addition, as of July 1991, COAD has become the nucleus of a new department, the Case Operations and Compliance Department ("COCD"). The PBGC anticipates that further structural refinements will be made to strengthen agency management, and it is in the process of reviewing PBGC directives to ensure that they reflect organizational realignments. In the interim and with exceptions not relevant here, COCD is continuing to fulfill the mission and functions previously assigned to COAD.[6]

Under the reorganized agency structure, the COCD unit with primary responsibility for the penalty assessment function will be the Administrative Review and Technical Assistance Division ("ARTAD", formerly COAD's Coverage and Inquiries Branch). ARTAD will obtain information from and consult with staff in other divisions of COCD, IOD, and the Office of the General Counsel ("OGC") as appropriate.

Finally, as indicated above, the agency still is considering policy issues in the premium area. If the PBGC decides to apply the operating policy issuance to failures in the premium area, it expects that primary responsibility for such matters will be within the Financial Operations Department.

COCD, IOD, and CFND have developed procedural materials for implementing the agency's policy, consistent with the guidance provided in the operating policy issuance. (These materials include "Penalty Assessment Procedures—COCD" (currently Chapter 3, Section M of Part 4—Case Operations and Assistance Division—of the IOD Operations Manual), additions to Part 2—Case Processing Division—of the IOD Operations Manual (currently found in Chapter 2, CPD Administrative Procedures, and Chapter 6, Reportable Events), and "Penalty Assessment Procedure, Corporate Finance and Negotiation Department (CFND)".) When PBGC staff assigned to particular matters or otherwise responsible for assuring compliance with submission requirements believe that material information has not been provided to the PBGC within the applicable time limit, they will review available records and attempt to resolve factual issues. If it then appears that a penalty should be assessed, PBGC staff will submit the matter to the appropriate assessing official.

If the assessing official determines that a penalty should be assessed, he or she will notify the person or persons responsible, in writing, of the factual and legal basis for the penalty and how to obtain review of the amount assessed. Review of the amount assessed will be conducted by a reviewing official (an official of at least the same level of authority as the assessing official) if requested in writing within 30 days of the date of the notice of initial penalty assessment. Upon completion of his or her review, the reviewing official (or if review has not been requested, the assessing official) will notify the person or persons responsible, in writing, of the penalty owed, including (if there has been review) a brief statement of the reason(s) why the amount assessed has or has not been changed, and will request payment within 14 days. (If review is requested after the 30-day period but before the assessing official has notified the person(s) responsible of the penalty owed, the reviewing official may decide there is good cause to review the amount assessed.) If a penalty is not paid when due, the matter is to be referred for collection.[7]

Issued in Washington, DC this 27th day of February, 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-4909 Filed 3-2-92; 8:45 am]

BILLING CODE 7708-01-M

[4] IOD's mission has included (among other things) discharging the PBGC's responsibilities for processing plan terminations, withdrawals of substantial employers from plans to which more than one employer contributes, and notices of reportable events; and conducting PBGC compliance activities.

[5] Where CFND is exercising responsibility, consultation with the PBGC's Chief Negotiator will precede a decision to pursue penalty assessment.

[6] COAD's mission has included (among other things) management of the PBGC's program of processing standard termination filings, identifying noncompliance and related problems; conducting a program of technical assistance related to potential reportable events and terminations; monitoring plan administrator adherence to filing requirements; and controlling, screening, and conducting initial processing of cases.

[7] The PBGC is in the process of developing staff instructions for the recovery of certain benefit overpayments. If the agency extends its management procedures to the recovery of other debts, they will apply to collection of penalties assessed pursuant to section 4071 of ERISA.

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of the Addition of a New Routine Use and Amendment of an Existing Routine Use in System of Records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add a new routine use to and to amend an existing routine use in system USPS 050.020, Finance Records—Payroll System. The new routine use will permit disclosure of limited information to the Health Care Financing Administration (HDFA) about group health provider coverage for career and certain temporary postal employees who have been identified by HCFA as Medicare-eligible. Existing routine use No. 9 is amended to clarify language and correct the names of agencies and programs that have changed since adoption of the routine use.

DATES: This proposal will become effective without further notice 30 days from the date of this publication (April 2, 1992) unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: Comments may be mailed to the Records Office, US Postal Service, 475 L'Enfant Plaza SW, RM 8141, Washington, DC 20260-5010, or delivered to room 8141 at the above address between 8:15 a.m. and 4:45 p.m. Comments received also may be inspected during the above hours in Room 8141.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, Records Office (202) 268-5158.

SUPPLEMENTARY INFORMATION: The Health Care Financing Administration (HCFA) is responsible for administering the federal health insurance "Medicare" program. A recent amendment (42 USC 1395y(b)(5)) of the Social Security Act requires the HCFA, Internal Revenue Service, and Social Security Administration to share information that identifies workers (or spouses) who are Medicare beneficiaries, the workers'

employers, and those beneficiaries for whom employer coverage, if available, is likely to be primary to Medicare. The law further requires HCFA to contact employers to obtain Group Health Plan (GHP) coverage information for its employees so identified. The information helps HCFA to identify situations where another insurer may be primary to Medicare, to recover mistaken Medicare primary payments from the appropriate GHP, and to prevent mistaken Medicare payments in the future.

HCFA has asked the Postal Service to provide information about postal employees identified by HCFA as being Medicare-eligible including name of the employee's GHP, dates of coverage, and type of coverage elected. Proposed routine use No. 28 will permit such disclosure. Because the Postal Service is a large employer, HFCA has encouraged it to report by electronic media rather than through completion of a paper questionnaire.

USPS 050.020 collects information needed to handle necessary payroll and personnel functions. One of those functions is to provide information about health benefits, including election of group health plan coverage. In performing that function, it becomes necessary to release relevant and necessary information needed by carriers and agencies administering programs to make determinations concerning claims for benefits. Consequently, disclosure under proposed routine use No. 28 is compatible with the purposes for which the information in USPS 050.020 is collected.

Amendments to the language of existing routine use No. 9 merely clarify coverage and update the names of benefit programs and agencies administering them. For example, the current text of the routine use references the "Medicare Program" under "Social Security" and that program is now under HCFA. The scope of the routine use has not been expanded.

Accordingly, the Postal Service is amending routine use No. 9 and adding routine use No. 28 to system USPS 050.020, Finance Records, Payroll System, as shown below. USPS 050.020 last appeared in 54 FR 43667, dated October 26, 1989, amended at 55 FR 20554 dated May 17, 1990 and 56 FR 13505 dated April 2, 1991.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

9. Records or information from the record of an individual may be disclosed to the following agencies for the named programs, when requested by that individual agency or program, in connection with determining an individual's claim for benefits under such program: The Department of Labor for the Office of Workers' Compensation Program; the Social Security Administration for Social Security Benefits programs (including retirement, survivors, and disability insurance); the Department of Veterans Affairs for the Pension Benefits Program; the Health Care Financing Administration for the Medicare Program; a branch of the Armed Services under military retired pay programs; and federal civilian employee retirement systems including, but not limited to, the Civil Service Retirement System or the Federal Employees' Retirement System.

* * * * *

28. Records or information about group health plan coverage for career and certain temporary employees who have been identified by Health Care Financing Administration (HCRA) as being eligible for Medicare benefits will be disclosed to HCRA, but disclosure will be limited to that necessary to confirm coverage and determine whether Medicare is the primary or secondary payer.

* * * * *

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc 92-4869 Filed 3-2-92; 8:45 am]

BILLING CODE 7710-12

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Queen Creek Property, Pinal County, AZ

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Queen Creek, located in Florence, Pinal County, Arizona, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 1, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: E. Ted Hine, Resolution Trust Corporation, Costa Mesa Consolidated Field Office, 4000 MacArthur Boulevard, Second Floor, East Tower, Newport Beach, CA 92660-2516, (714) 263-4648, Fax (714) 852-7623.

SUPPLEMENTARY INFORMATION: The property is located near the town of Queen Creek approximately five miles south of Hunt Highway on Ellsworth Avenue, Pinal County, Arizona. The property consists of fifteen legal parcels that form nine non-contiguous parcels comprising a total of 2,979 acres of undeveloped land. The property has cultural value and borders the San Tan Mountains Regional Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 2,979 acres of Sonoran desert with topography ranging from level to fairly steep. Both petroglypys and ancient American Indian agricultural fields have been reported on the property. The property has cultural value and borders the San Tan Mountains Regional Park.

Property size: Approximately 2,979 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 1, 1992, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 1, 1992, to Ted Hine at the above ADDRESSES and in the following form:

Notice of Serious Interest, RE: Queen Creek Property, Federal Register Publication Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: February 26, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Sercetary.

[FR Doc. 92-4825 Filed 3-2-92; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Monte Ne Beaver Lake Campground, Benton County, AR

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Monte Ne Beaver Lake Campground, located near the City of Rogers, Benton County, Arkansas, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC unitl June 1, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Joseph Milano, Asset Specialist, Resolution Trust Corporation, Somerset Consolidated Field Office, 300 Davidson Avenue, Somerset, NJ 08873, (908) 805-5943, Fax (908) 805-6284.

SUPPLEMENTARY INFORMATION: The property is located in the Ozark Mountains at Route 1 and Highway 94 in Rogers, Benton County, Arkansas. The property is unimproved, has recreational value, and is adjacent to Beaver Lake which is managed by the Army Corps of Engineers. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is a 69.7 acre recreational vehicle campground with 94 campsites and their associated support facilities. The property is adjacent to Beaver Lake and about one-half of the tract (35 acres) is wooded open space.

Property size: Approximately 69.7 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 1, 1992, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 1, 1992, to Joseph Milano at the above ADDRESSES and in the following form:

Notice of Serious Interest RE: Monte Ne Beaver Lake Campground Federal Register Publication Date:_____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: February 26, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92-4826 Filed 3-2-92; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

February 26, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Latin America Equity Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-8019)

Nutmeg Industries, Inc.
Common Stock, $.01 Par Value (File No. 7-8020)

Oceaneering International, Inc.
Common Stock, No Par Value (File No. 7-8021)

Blackstone 1998 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7-8022)

Frederick's of Hollywood, Inc.
Common Stock, $1.00 Par Value (File No. 7-8023)

Martech USA, Inc.
Common Stock, $.01 Par Value (File No. 7-8024)

Electrocom Automation, Inc.
Common Stock, $.05 Par Value (File No. 7-8025)

Living Centers of America, Inc.
Common Stock, $.01 Par Value (File No. 7-8026)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-4882 Filed 3-2-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30404; File No. SR-MCC-92-01]

Self-Regulatory Organizations; Midwest Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Which Clarifies Certain Uses of the Participants Fund

February 25, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on

[1] 15 U.S.C. 78s(b)(1).

February 5, 1992, Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC proposes to amend Article IX, rule 2, section 6 of its rules to clarify the use of MCC's Participants Fund in situations where a loss occurs due to the fault of MCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC includes statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change clarifies the use of MCC's Participants Fund in situations where a loss occurs due to MCC's fault. While the existing rules could be interpreted to permit the use of the Participant Fund to satisfy any loss suffered by MCC, including a loss due to the fault of MCC (*e.g.*, a loss resulting from the failure of MCC to follow its own rules), this clearly is not MCC's policy or the intent of the rules regarding the uses of a clearing fund.

MCC currently has indemnification rules which apply to Participants under certain circumstances where MCC is without fault.[2] Interpreting MCC's Participants Fund rules as covering losses which result from MCC's fault would be inconsistent with the policies intended by these existing indemnification rules. MCC, therefore, believes that it is in the best interest of MCC and its Participants to clarify immediately the rules regarding the use of the Participants Fund.

[2] *E.g.*, MCC Rules, Article I, rule 3, section 3.

MCC believes that the proposed rule change is consistent with section 17A(b)(3) of the Act in that it provides for the prompt, accurate, and efficient clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of MCC or for which MCC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b-4 thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room at the address above. Copies of such filing will also be available for inspection and copying at the principal office of MCC. All submissions should refer to the file Number SR-MCC-92-01 and should be submitted by March 24, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4814 Filed 3-2-92; 8:45 am]

BILLING CODE 8010-01-M

[3] 17 CFR 200.30-3(a)(12).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

February 26, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Electrocom Automation, Inc.
Common Stock, $.05 Par Value (File No. 7-8027)

Federated Department Stores, Inc.
Common Stock, $.01 Par Value (File No. 7-8028)

Intertape Polymer Group, Inc.
Common Stock, Without Par Value (File No. 7-8029)

Comptek Research, Inc.
Common Stock, $.02 Par Value (File No. 7-8030)

GIM High Yield Securities
Shares of Beneficial Interest, $.01 Par Value (File No. 7-8031)

Dataram Corporation
Common Stock, $1.00 Par Value (File No. 7-8032)

First Republic Bancorp, Inc.
Common Stock, $.01 Par Value (File No. 7-8033)

First Empire State Corporation
Common Stock, $5.00 Par Value (File No. 7-8034)

Guardian Bancorp
Common Stock, No Par Value (File No. 7-8035)

Ketema, Incorporated
Common Stock, $1.00 Par Value (File No. 7-8036)

Medical Properties, Inc.
Common Stock, $.01 Par Value (File No. 7-8037)

MSR Exploration LTD
Common Stock, No Par Value (File No. 7-8038)

Polyphase Corporation
Common Stock, No Par Value (File No. 7-8039)

Tasty Baking Company
Common Stock, $.50 Par Value (File No. 7-8040)

Westair Holding, Inc.
Common Stock, $.01 Par Value (File No. 7–8041)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–4815 Filed 3–2–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

February 26, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

General Motor
Depositary Shares Preferred (File No. 7–8042)
Van Kampen Merritt Trust for Investment Grade Municipal
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–8043)
Van Kampen Merritt Trust for Insured Municipals
Common Shares of Beneficial Interest $.01 Par Value (File No. 7–8044)
Brown & Sharpe Manufacturing Co.
Common Stock, $1 Par Value (File No. 7–8045)
Granada Biosciences, Inc.
Common Stock, $.01 Par Value (File No. 7–8046)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–4816 Filed 3–2–92; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review.

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted by April 2, 1992. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATON CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Function of Failure Survey.

SBA Form No.: SBA Temp Form 1822.

Frequency: One-time.

Description of Respondents: Small Business Owners.

Annual Responses: 100.

Annual Burden 33.

Dated: February 19, 1992.

Cleo Verbillis,

Acting Chief, Administrative Informaton Branch.

[FR Doc. 92–4848 Filed 3–2–92; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2552]

Republic of the Marshall Islands; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 7, 1992, I find that the Island of Kili and the Atolls of Arno, Jaluit, Majuro, and Mili in the Republic of the Marshall Islands constitute a disaster area as a result of damages caused by Trophical Storm Axel which occurred on January 6, 1992. Applications for loans for physical damage may be filed until the close of business on April 9, 1992, and for loans for economic injury until the close of business on November 9, 1992, at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853–4795.

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.500
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 255208 and for economic injury the number is 755900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59006).

Dated: February 18, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-4853 Filed 3-2-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area # 2545; Amendment # 3]

Texas; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated January 30 and February 5, 1992, to the President's major disaster declaration of December 26, to include the counties of Austin, Comal, Gonzales, Henderson, and Somervell in the State of Texas as a disaster area as a result of damages caused by severe thunderstorms and flooding beginning on December 20, 1991 and continuing through January 14, 1992.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Bexar, Smith, Van Zandt, and Wilson in the State of Texas may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 24, 1992, and for economic injury until the close of business on September 28, 1992.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 20, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-4851 Filed 3-2-92; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The U.S. Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, will hold a public meeting at 9:30 a.m. on Thursday, March 26, 1992, at the North Meridian Inn, 1530 North Meridian Street, Indianapolis, Indiana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Robert D. General, District Director, U.S. Small Business Administration, 429 North Pennsylvania Street, suite 100, Indianapolis, Indiana 46204-1873, (317) 226-7275.

Dated: February 12, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-4852 Filed 3-2-92; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 8:30 a.m. on Monday, March 9, 1992 at the Days Inn, 900 East Main Street, Meriden, Connecticut, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ms. Carol A. White, District Director, U.S. Small Business Administration, 429 North Pennsylvania Street, Hartford, Connecticut 06106, (203) 240-4670.

Dated: February 12, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-4849 Filed 3-2-92; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Jacksonville, will hold a public meeting from 10 a.m. to 2:30 p.m., on Thursday, March 19, 1992, Sun Bank, N.A. (Park Building, in the Sun Room on the 3d floor), 200 S. Orange Avenue, Orlando, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Thomas M. Short, District Director, Jacksonville District Office, U.S. Small Business Administration, 7825 Baymeadows Way, Suite 100-B, Jacksonville, Florida 32256-7504, (904) 443-1900.

Dated: February 18, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-4850 Filed 3-2-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1578]

Proposed Modification to Transportation Procurement Procedures for the International Shipment of Household Effects

AGENCY: Department of State;

ACTION: Notice of intent.

SUMMARY: The Department of State plans to modify the manner in which it procures transportation and related services for the surface movement of household effects from the greater Washington, DC Metropolitan Area to selected overseas destinations. Notice addresses the international, door to door movement of containerized shipments of household effects transported via common-user ocean carrier (Code 4) using single factor rates. Interested parties are invited to comment.

DATES: Comments must be received on or before March 31, 1992.

ADDRESSES: Inquiries or comments may be mailed to Office of Supply and Transportation, Transportaiton Division, U.S. Department of State, Attn: OPR/ST/TD, Washington, DC 20520-1244.

FOR FURTHER INFORMATION CONTACT: Noreen Toy-Sneddon, Office of Supply and Transportation, Transportation Division, U.S. Deaprtment of State, Attn: OPR/ST/TD, Washington, DC 20520-1244, (202) 647-4140 or FAX (202) 647-4956.

SUPPLEMENTARY INFORMATION: Department of State (DOS) plans to initiate an International Through Government Bill of Lading Program for the surface shipment of household effects to selected overseas destinations using single factor rates. This program will supplement the existing Direct Procurement Method (DPM) Program which is currently used by DOS to obtain transportation and related services for the international shipment of household effects. Although rates for DOS will be solicited by the Military Traffic Management Command (MTMC) simultaneously with their semi-annual International Personal Property Rate Solicitation for DoD, the ITGBL Program for DOS is completely separate and distinct, having its own Terms, Conditions, and Rules as well as a DOS unique Tender of Service. The initiation of this pilot ITGBL Program is a part of a larger overall program to improve service, reduce costs and to facilitate the transportation and traffic management of household effects within the Department of State. Initial service under the DOS ITGBL Program is

scheduled to begin on October 1, 1992 and run through March 31, 1993. Copies of the historical volume, DOS Tender of Service and the associated Terms, Conditions and Rules may be obtained from the Office of Supply and Transportation, Transportation Division, U.S. Department of State, ATTN: OPR/ST/TD, Washington, DC, 20520–1244 or by telephoning Noreen Toy-Sneddon (202) 647–4140 or FAX (202) 647–4956.

Dated: February 24, 1992.

Steven G. Hartman,

Chief, Transportation Division.

[FR Doc. 92–4844 Filed 3–2–92; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended February 21, 1992

The Following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47990.
Date Filed: February 18, 1992.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 539 (TC23 UMRAH Fares to Jeddah, Medina).
Proposed Effective Date: February 16, 1992.

Docket Number: 47991.
Date Filed: February 18, 1992.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 538 (Amend Mileage Manual).
Proposed Effective Date: March 1, 1992.

Docket Number: 47994.
Date Filed: February 20, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC2 Reso/P 1175 dated December 20, 1992, Europe-Middle East Resos R–1 to R–41.
Proposed Effective Date: April 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–4826 Filed 3–2–92; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 21, 1992

The following applictions for certificates of public convenience necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedureal Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expeditied procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47995.
Date filed: February 21, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 20, 1992.
Description: Application of Alaska Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests that the Department of Transportation grant it a certificate of public convenience and necessity to operate scheduled service in foreign air transportation for passengers, property and mail between Los Angeles, California and Toronto, Ontario, Montreal and Quebec, Canada.

Docket Number: 47996.
Dated filed: February 21, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 20, 1992.
Description: Application of Tower Air, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for amendment of its certificate of public convenience and necessity for Route 401 to provide scheduled combination service between points in the United States and points in the Republic of Ireland.

Docket Number: 47999.
Date filed: February 21, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 5, 1992 Re—Notice Served February 24, 1992.
Description: Joint Application of Trump Shuttle, Inc., a New York corporation, and Shuttle, Inc., a to-be-formed Delaware corporation, pursuant to section 401(h) of the Act and subpart Q of the Regulations, apply for approval of the transfer of the interstate and overseas authority currently held by TSI to "Shuttle, Inc. d/b/a USAir Shuttle," that will technically occur when TSI merges into Shuttle, its wholly-owned subsidiary. Shuttle will retain TSI's key personnel—and pursuant to a ten year management agreement with USAir, Inc. and will operate as the "USAir Shuttle." The USAir Shuttle will continue to operate in the traditional air shuttle markets between New York and Washington and New York and Boston and in the charter markets currently served by TSI.

Docket Number: 45723.
Date filed: February 21, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 20, 1992.
Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for an Amendment of its foreign air carrier permit to engage in the scheduled air transportation of property and mail on the route: Mexico City (MEX-Benito Juarez) and/or Toluca (TLC–Morelos), Mexico, on the one hand, and Laredo, Texas (LRD), on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Divisons.

[FR Doc. 92–4827 Filed 3–2–92; 8:45 am]

BILLING CODE 4910–62–M

National Highway Traffic Safety Administration

[Docket No. 92–10; Notice 1]

Notice of Receipt of Petition for Determination That Nonconforming 1991 BMW 850i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1991 BMW 850i passenger cars are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1991 BMW 850i passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 12, 1992.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 8:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that:

(I) the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 (of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("WETL") (Registered Importer No. R–90–005) has petitioned NHTSA to determine whether 1991 BMW 850i passenger cars are eligible for importation into the United States. The vehicle which WETL believes is substantially similar is the 1991 BMW 850i that was manufactured for importation into and sale in the United States and that was certified by its manufacturer, Bayerische Motoren-Werke A.G., as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it performed a careful evaluation of the non-U.S. certified 1991 model 850i, and determined that it is substantially similar to its U.S. counterpart. As described by the petitioner, this evaluation included an exhaustive review of the factory parts manual for both vehicles, as well as a visual inspection of individual parts. Based on this evaluation, the petitioner contends that the non-U.S. certified 1991 model 850i, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. counterpart, or is capable of being readily modified to conform to those standards. Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 112 *Headlamp Concealment Devices,* 113 *Hood Latch Systems,*116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Door Strength,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 105 *Hydraulic Brake Systems*: Replacement of the master cylinder cap with one containing a brake fluid level warning switch that activates the brake failure indicator lamp when the ignition switch is turned to the "on" position.

Standard No. 108 *Lamps, Reflecting Devices and Associated Equipment*: (a) Installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model taillamp lenses; (c) addition of amber reflectors to the front parking lamps; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 11 *Rearview Mirrors*: Replacement of the passenger's outside rearview mirror with one bearing the required warning statement.

Standard No. 114 *Theft Protection* : Installation of a buzzer.

Standard No. 115 *Vehicle Identification Number*: Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupation Crash Protection*: (a) Installation of a belt webbing-actuated microswitch in the driver's seat belt retractor or replacement of the seat belt latch with one containing a microswitch to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of driver's side airbag, impact sensors and wiring harness with U.S.-model components in vehicles that are equipped with an airbag or installation of those components in vehicles that are not so equipped.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 2, 1992.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(II) and (C)(iii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Dated: February 27, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92–4886 Filed 3–2–92; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 92–09; Notice 1]

Receipt of Petition for Determination That Nonconforming 1988 Mitsubishi Galant VX Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Adminstration, DOT.

ACTION: Request for comments on petition for determination that nonconforming 1988 Mitsubishi Galant

VX passenger cars are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1988 Mitsubishi Galant VX that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 2, 1992.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR ADDITIONAL INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that:

(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 (of the Act), and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. AS specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to determine whether 1988 Mitsubishi Galant VX passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1988 Mitsubishi Sigma that Mitsubishi Motors Corporation offered for sale in the United States and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the Galant VX with the Sigma, and found that they are substantially similar with respect to most applicable Federal motor vehicle safety standards. According to the petitioner, the two vehicles are structurally the same and differ mainly with respect to engine size. The petitioner observed that manufacturers generally design only a few basic body shells, which they then equip with a multitude of engine size and cosmetic or comfort options. The petitioner expressed the opinion that every model does not find its way into every market, however, owing to salability considerations or yearly changes in restrictions such as emission control requirements. The petitioner asserts that the 1988 Galant VX, as originally manufactured, conforms to many of the Federal motor vehicle safety standards in the same manner as its U.S. counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1988 Galant VX is identical to its U.S.-companion model with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluids*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Door Strength*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Relacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch in the retractor for that belt; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1988 Galant VX must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested

but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 2, 1992.

Authority: 15 U.S.C. 1397(c)(3) (A)(i) (II) and (C)(iii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 7, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-4887 Filed 3-2-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 26, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Engraving and Printing

OMB Number: 1520-0001.
Form Number: BEP 5283.
Type of Review: Extension.
Title: Owner's Affidavit of Partial Destruction of Mutilated Currency.
Description: Office of Currency Standards, Bureau of Engraving and Printing, requests owners of partially destroyed U.S. currency to complete notarized affidavit (Form BEP 5283) for each claim submitted when substantial portions of notes are missing.
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 300.
Estimated Burden Hours Per Response: 35 minutes.
Frequency of Responses: On occasion.
Estimated Total Reporting Burden: 180 hours.
Clearance Officer: Pamela Grayson (202) 447-0853, Bureau of Engraving and Printing, Room 317A, Engraving and Printing Annex, 14th and C Streets, SW., Washington, DC 20228.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-4870 Filed 3-2-92; 8:45 am]

BILLING CODE 4840-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 26, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0135.
Form Number: IRS Form 1138.
Type of Review: Extension.
Title: Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.
Description: Form 1138 is filed by corporations to request an extension of time to pay their income taxes, including estimated taxes. Corporation may only file for an extension when they expect a net operating loss in the tax year and want to delay the payment of taxes from a prior tax year.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 2,033.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hours, 21 minutes.
Learning about the law or the form—35 minutes.
Copying, assembling, and sending the form to IRS—41 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 9,392 hours.
OMB Number: 1545-1130.
Form Number: IRS Form 8816.
Type of Review: Extension.
Title: Special Loss Discount Account and Special Estimated Tax Payments for Insurance Companies.
Description: Form 8816 is used by insurance companies claiming an additional deduction under Internal Revenue Code (IRC) section 847, to reconcile their special loss discount, and special estimated tax payments, and to determine their tax benefit associated with the deduction. The information is needed by the IRS to determine that the proper additional deduction was claimed and to insure the proper amount of special estimated tax was computed and deposited.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 2,500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 hours, 42 minutes.
Learning about the law or the form—47 minutes.
Preparing, copying, assembling, and sending the form to IRS—56 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Reporting Burden: 21,075 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-4871 Filed 3-2-92; 8:45 am]

BILLING CODE 4830-01-M

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92-463, that a meeting will be held at the Federal Reserve Bank of New York on March 11, 1992, of the following debt management advisory committee:

Public Securities Association
Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on March 11. A written report will be submitted to the Secretary of the Treasury following the meeting.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 101–05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552(c) (4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92–463. The advise provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of title 5 of the United States Code for matter which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final decisions may not reflect the recommendations provided in reports of an advisory committee, the nature and content of the discussion and recommendations are such that their premature disclosure would lead to significant speculation in the securities market. Thus, the meeting also falls within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: February 28, 1992.

Jerome H. Powell,

Assistant Secretary (Domestic Finance).

[FR Doc. 92–4834 Filed 3–2–92; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Public and Private Non-Profit Organizations In Support of International Educational and Cultural Activities.

AGENCY: United States Information Agency.

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) announces a competitive grants program for private, non-profit organizations to develop educational and training programs in the areas of (1) local government public administration, (2) business administration, and (3) independent media development. These projects should link the organization's international exchange interests with counterpart institutions/groups, particularly in Poland, Hungary, Czechoslovakia, Romania, Bulgaria, and Albania. Proposals of the same nature will also be considered for exchange programs with Estonia, Latvia, and Lithuania. This Request for Proposals is in response to a Congressional mandate "to provide training for educators, government officials, business leaders, and scholars in the emerging democracies of Eastern Europe." All communications concerning this announcement should refer to the:

Central and Eastern European Training Program (CEETP–2)

Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: This action is effective from the publication date of this notice through April 24, 1992, for projects whose activities commence after September 15, 1992.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, April 24, 1992. Proposals received by the Agency after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents postmarked April 24, 1992, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline.

ADDRESSES: The original and 15 copies of the completed application and required forms, should be submitted by the deadline to: U.S. Information Agency, Grants Management Office (E/XE), ATTN: Citizen Exchanges, The Central and Eastern European Training Program (CEETP–2) room 357, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington DC 20547. Only written requests for this solicitation will receive a response.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency announces a program to encourage, through limitd awards to non-profit institutions, increased commitment to and involvement in international exchanges. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. Awarding of any and all grants is contingent upon the availability of funds.

The Office of Citizen Exchanges works with U.S. non-profit organizations on cooperative international group projects.

The Office of Citizen Exchanges strongly encourages the coordination of these activities with respected universities, professional associations, and major cultural, educational and political institutions in the U.S. and abroad. Each private sector activity must maintain a non-political character and should maintain its scholarly integrity and meet the highest professional and/or academic standards.

The themes addressed in these exchange programs must be of long-term importance rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale for the development and execution of an exchange program must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project and its enduring impact.

The Office does not support proposals limited to conferences or seminars (i.e., one- to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a larger project in duration and

scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; consultations; and extended, intensive workshops taking place in the United States or overseas.

Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. USIS post consultation by applicant, prior to submission of proposals, is strongly recommended for all programs.

Objectives of the Central and Eastern European Training Program (CEETP-2)

Overview: USIA will accord highest priority in this competition to proposals for projects that encourage the growth of democratic institutions and political and economic pluralism. The Office is interested in supporting programs that will lay the groundwork for new international linkages between American and Central/Eastern European professional organizations. Proposals which are overly ambitious and general will not be competitive. Rather, institutions should provide strong evidence of their ability to accomplish a few tasks exceptionally well. They should also strive to accomplish many of the structural objectives outlined below:

—the advancement of mutual understanding through targeted programs for Central/Eastern European leaders and potential leaders in state, local and municipal government administration; economics and business development; media development in a free press; and related sub-topics;
—the development of culturally sensitive and relevant study tours in the United States for small groups of key senior leaders in each of these disciplines so that they can observe first-hand theories and concepts at work in the United States.
—the development of institutional linkages in the private or independent sectors that live beyond the duration of USIA funding support;
—coordination, in the design of these programs, with U.S. Information Agency officers overseas and with foreign government officials and private sector leaders who have direct experience in determining needs and in developing feasible approaches to respond to them;
—the identification and enhancement of Central and Eastern European counterpart non-governmental institutions as magnet centers to insure logistical coordination of programs taking place overseas and to increase the probability that these programs will endure;
—the development of durable consortia, associations, and information networks both in the United States and in Central/Eastern Europe;
—the transfer, at minimal cost, of relevant information through short courses and intensive workshops (each of at least two weeks in duration or longer) conducted in Central/Eastern Europe;
—the provision of carefully crafted internships in the U.S. and extended learning programs (from six weeks to three months with considerable in-country cost-sharing);
—the extension of American academic expertise and professional know-how through consultations in Central/Eastern Europe for periods of not less than one month, with particular emphasis on finding Americans who can reach the widest possible audience through their foreign language fluency;
—focused attention not only on reaching leaders and potential leaders but also on developing specialized materials for secondary and post-secondary teachers, and providing special training workshops for such teachers;
—the development and distribution of written, audio, and video instructional materials in Polish, Czech, Slovak, Hungarian, Romanian, Bulgarian, Albanian, Estonian, Latvian, and Lithuanian to complement and enhance educational and training programs;
—the stimulation of alternative funding sources in the U.S. and internationally to enhance and expand the size and scope of USIA assisted programs.

Programmatic Recommendations: Local Government Administration

In each of these countries there is a preponderance of newly elected officials at all government levels. Many have little if any experience in city, regional, state or national government administration. They have not been responsible for day-to-day governance and probably are not performing as well as they might. This requires enhanced grass-roots communication, clear and concise presentation of information, and programs encouraging voluntary and other private sector involvement. In particular, the CEETP program places emphasis on public administration at the municipal and regional levels.

Program topics in public administration might include financial management, accounting, raising tax revenues, election practices and protections, etc. Carefully constructed internships in the U.S. with city, county and state governments for some of the best and most promising "students" (i.e., professional leaders or emerging leaders) from these countries would enhance their learning experience. Ideally, development of these programs should be linked with development of relevant outreach or extension program capabilities in a suitable university in the country in which the program takes place.

Programs may also further the development of information and library systems, committee and staff structures, research capability, legislation drafting capability and other structural and procedural needs.

Programmatic Recommendations: Business Administration

This topic is very broad, and ranges across several disciplines but should focus primarily on management training and exposure to market economy concepts.

Included could be the provision of intensive courses and workshops in these countries on topics in macro- and micro-economics that are important to developing strong private businesses in a market economy environment. Other areas of primary importance include banking, accounting practices, financial management, marketing research and management, production management, entrepreneurship and small business development, industrial relations, and privatization as relevant to each nation's needs.

The development of new curricula and instructional materials in each language should be encouraged, with distribution of USIA-funded materials limited to these countries as prescribed by law.

Program design should clearly differentiate target audiences—professors and instructor of economics, senior business leaders, government officials, or promising practitioners. Intensive workshops and short-courses may also examine thematic areas of business development to include programs on agribusiness and family farming; service and industrial sector development; and related topics. Particular emphasis should be paid to development of business structures and the creation of jobs in non-urban areas.

Grantee institutions should try to maximize cost-sharing in all facets of their program design, and to stimulate U.S. private sector (foundation and corporate) support. Carefully designed internships in each of these subject areas would enhance training programs in Central and Eastern Europe—but the first priority is for the sharing of information overseas. Again, it is

especially desirable to develop these programs in such a way that they contribute to the development of relevant outreach and extension capability in local universities.

Programmatic Recommendations: Independent Media Development

The focus of these proposals should be directed toward the establishment of independent media since this is a sector of the society that has benefitted least from the new wave of democratization. Programs in this topic area fall under two sub-categories: journalist training and institutional development. Short-term courses and intensive workshops (each of at least two weeks in duration) in Central/Eastern Europe should provide insights for journalists at all professional levels and in all sub-disciplines (business, foreign affairs, domestic politics, agriculture, the environment, the arts, etc.) Training in basic skills, preferably for journalists outside of capital cities, should be emphasized such as effective writing, investigative reporting, objectivity, clear labelling of editorials and opinion pieces, copyright laws, and ethics. Curriculum reform and development in schools of journalism should be emphasized. Longer programs with more lasting impact are preferred.

Separate training modules for all forms of media management (television, radio, magazines and newspapers) may also be of assistance as privatization and decentralization of media expands. The media can be viewed as a profit-making business venture realized through advertising and circulation revenues. Topics for discussion might include business management techniques, desk top publishing, advertising, marketing, distribution, public relations, and the pitfalls of journalistic advocacy, among others. Components of program should include internships in the U.S. of at least one month in duration.

Programs for publishers and editors are also of interest, particularly if they include carefully-developed follow-on internships with prominent publishing and broadcasting companies in the United States, with those companies providing major cost-sharing. Internship programs in the United States might include a three-day orientation program on U.S. journalism practices, a six to ten week internship with a follow-on workshop comparing intern experiences, and a one-week trip to another part of the United States to examine American journalism practices and cultural traditions.

Scope: Proposals may describe programs in one or more of the above countries but should focus almost exclusively on one of the three major topics: public administration, business administration, or independent media development. A program that is too broad in scope is less likely to receive Agency support because of the immediacy of needs in Poland, Hungary, Czechoslovakia, Romania, Bulgaria, Albania, Estonia, Latvia, and Lithuania and concerns over program superficiality.

Other Logistical Considerations:

Program monitoring and oversight will be provided by appropriate Agency elements. Per Diem support from host institutions during an internship component is strongly encouraged. However, for all programs which include internships, a non-profit grantee institution which receives funds from corporate or other cosponsors will then use those monies to provide food, lodging, and pocket money for the participant. In no case could the intern receive a wage or "be hired" by the sponsoring institution. Internships should also have an American studies/values orientation component at the beginning of the exchange program in the U.S. Grantee institutions should try to maximize cost-sharing in all facets of their program design, and to stimulate U.S. private sector (foundation and corporate) support.

In the selection of all foreign participants, USIA and USIS posts retain the right to nominate participants and to accept or deny participants recommended by the program institution. The grantee institution should provide the names of American participants and brief biographical data to the Office of Citizen Exchanges for information purposes.

The Government reserves the right to reject any or all applications received. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense.

Funding and Budget Requirements for all Submissions

Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Grant applications should demonstrate substantial financial and in-kind support.

Funding assistance is primarily limited to project costs as defined in the Project Proposal Information Requirements (OMB #3116-0175, provided in application packet). USIA-funded administrative costs are limited to 22 (twenty-two) per cent of the total funds requested. Higher administrative requests will be entertained if prospective grantees can show that program complexities overseas require additional overseas support and administrative oversight. The application must clearly differentiate between costs required for strictly overseas activities and those incurred in the United States for U.S.-based activities. Failure to make these distinctions clearly in the budget presentation (including distinct categories of expenses) will result in all administrative costs restricted under the 22 per cent rule.

Universities and other institutions applying for USIA support are encouraged to cost-share indirect costs and to pay the salaries of their faculty or professionals while they are providing instruction in Central/Eastern Europe. Given the fact that USIA posts overseas are in many cases over-extended, it is necessary for the grantee applicant to provide evidence of institutional cosponsorship in Central/Eastern Europe and, in some cases, on-site presence to insure the logistical success of all programs.

Organizations with less than four year's experience in conducting international exchange programs are limited to $60,000 of USIA support. In most cases, total grant proposals will be considered in the general range between $125,000 and $250,000 in the amount requested from USIA, although USIA reserves the right to award grants for amounts outside this range. Awarding of any and all grants is contingent upon the availability of funds. USIA anticipates funding activities for one year, although applications should be structured so that a one-year renewal is an option.

Additional Guidelines and Restrictions

Proposals for all programs are subject to review and comment by USIS posts.

Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation. Similarly, programs in support of internships in the U.S. should include letters tentatively committing host institutions to support this effort.

Bureau grants are not given to support projects whose focus is limited to technical issues, or for research projects, for youth or youth-related activities (participants' age under 25), for publications funding for dissemination in the United States, for individual student exchanges, for film festivals and exhibits. Nor does this office provide scholarships or support for long-term (a

semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register.**

Application Requirements

Application materials may be obtained by writing to: The Office of Citizen Exchanges (E/P), United States Information Agency, Attn: CEETP-2, room 216, 301 4th Street, SW., Washington, DC 20547.

Inquiries concerning technical requirements are welcome.

For purposes of review, proposals must be identified by the country or countries of focus and the proposed thematic area of interest it is addressing.

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement (15 pages or less) of what the project is designed to accomplish; how it is consistent with the purposes of the USIA grant program; and how it relates to USIA's mission—to further U.S. foreign policy objectives, explain U.S. policies and actions overseas, to present American society to citizens of other countries, to create and strengthen personal and institutional ties between the U.S. and other Nations, to increase mutual understanding, and to correct misperceptions about the United States.

2. A concise description of the project's work plan and its intellectual rationale, spelling out complete program schedules, thematic agenda, and proposed itineraries, who the participants will be, where they will come from, and how they will be selected. Resumes should not exceed two pages in length and should be tailored for this specific program.

3. A statement of what follow-up activities are proposed; how the project will be evaluated; and what groups, beyond the direct participants, will benefit from the project and how they will benefit.

4. A detailed three-column budget.

Note: All application forms will be provided with the application packet.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Agency's appropriate geographic area office and the contracts office. Funding decisions are at the descretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contacting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality, substance, rigor, and relevance to Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. *Institution Reputation/Ability/Evaluations:* Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). Relevant evaluation results of previous projects are part of this assessment.

3. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program. Resumes or C.V.s should be summaries relevant to the specific proposal and no longer than two pages each.

4. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

5. *Thematic Expertise:* Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.

6. *Cross-Cultural Sensitivity/Area Expertise:* Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.

7. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.

9. *Cost-Effectiveness:* The overhead and administrative components should be kept as low as possible. All other items should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institution direct funding contributions.

11. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA supported programs are not isolated events.

12. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about August 21, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: February 24, 1992.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-4855 Filed 3-2-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 42
Tuesday, March 3, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, March 9, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 28, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-5035 Filed 2-28-92; 1:17 pm]

BILLING CODE 92-5035-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10 a.m., Tuesday, March 10, 1992.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 29802, *Delaware and Hudson Railway Company* v. *Consolidated Rail Corporation—Reciprocal Switching Agreement.*

Docket No. MC-C-30129, *Pittsburgh-Johnstown-Altoona Express, Inc.—Petition for Declaratory Order.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927-5350, TDD: (202) 927-5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4996 Filed 2-28-92; 10:35 am]

BILLING CODE 7035-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Reauthorization Committee Meeting Changes

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 24, 1992; 57 FR 6350.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 9, 1992, scheduled to commence at 8:30 a.m.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: The Washington Marriott Hotel, 1221 22nd Street, NW., The DuPont Ballroom, Washington, DC. 20037.

CHANGES IN THE MEETING:

DATE AND TIME: The meeting of the Board of Directors Reauthorization Committee has been rescheduled to April 5, 1992. The meeting is tentatively scheduled to commence at 2:00 p.m.

PLACE: The Hilton Palacio Del Rio Hotel, 200 South Alamo, San Antonio, Texas 78205, (512) 222-1400.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED: (To Be Announced,).

CONTACT PERSON FOR INFORMATION: Patricia Batie at (202) 863-1839.

Date Issued: February 28, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-5006 Filed 2-28-92; 11:01 am]

BILLING CODE 7050-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 2, 9, 16, and 23, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of March 2

Wednesday, March 4

10:00 a.m.
Briefing by NARUC on Economic Issues Associated with Nuclear Power Plant Operations and HLW Programs (Public Meeting)

Thursday, March 5

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Ohio Edison Company's Motion for Reconsideration of CLI-91-15 (Tentative)
b. NRC Staff's Motion to Vacate the Licensing Board's Initial Decision, LBP-91-29, Fewell Geotechnical Engineering, Ltd (Thomas E. Murray, Radiographer) (Tentative)
c. Commission Reconsideration of Standards Covering Combined License Hearing for Louisiana Energy Services Uranium Enrichment Plant (Tentative) (Postponed from February 26)

Week of March 9—Tentative

Tuesday, March 10

1:00 p.m.
Briefing on Pending Investigations (Closed—Ex. 5 and 7)

2:00 p.m.
Briefing on Risk-Based Regulations Transition Strategy (Public Meeting)

Wednesday, March 11

9:00 a.m.
Briefing on Rulemaking Process for Developing Residual Radioactivity Standards for Decommissioning (Public Meeting)

10:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

1:30 p.m.
Briefing on Requirements for Integral System Testing of Westinghouse AP-600 (Public Meeting)

Week of March 16—Tentative

Tuesday, March 17

8:30 a.m.
Discussion of Readiness to Restart of the General Atomics—Sequoyah Fuels Facility (Public Meeting)

2:00 p.m.
Briefing on Actvities of the Center for Nuclear Waste Regulatory analysis (CNWRA) (Public Meeting)

3:30 p.m.
Discussion of Internal Commission Procedures (Public Meeting)

Thursday, March 19

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 23—Tentative

Wednesday, March 25

10:00 a.m.

Annual Briefing on Medical Use Byproduct Material (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 4–0 (Commissioner de Planque not participating) on February 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Commission Order on Shoreham" (Public Meeting) be held on February 26 and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date. To Verify the Status of Meeting Call (Recording)—(303) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: February 28, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–5053 Filed 2–28–92; 2:16 am]

BILLING CODE 7590–01–M

federal register

Tuesday
March 3, 1992

Part II

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

February 13, 1992.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Nanticoke Lenni-Lenape Indians, c/o Mark M. Gould, P.O. Box 544, 18 East Commerce Street, Bridgeton, New Jersey 08302, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on January 3, 1992, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362–MIB, 1849 C Street NW., Washington, DC 20240, Phone: (202) 208–3592.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–4806 Filed 3–2–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
March 3, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Notice

DEPARTMENT OF THE INTERIOR

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

February 13, 1992.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.6(a)) notice is hereby given that the Lake Superior Chippewa of Marquette, Inc., c/o Daniel Bressette, P.O. Box 1071, Marquette, Michigan 49855, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on December 13, 1991, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362–MIB, 1849 C Street NW., Washington, DC 20240, Phone: (202) 208–3592.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs

[FR Doc. 92–4807 Filed 3–2–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
March 3, 1992

Part IV

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Definition of Hazardous Waste; "Mixture" and "Derived-From" Rules; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-4108-9]

Hazardous Waste Management System; Definition of Hazardous Waste; "Mixture" and "Derived-From" Rules

AGENCY: Environmental Protection Agency.

ACTION: Response to court remand: interim final rule.

SUMMARY: On May 19, 1980 (45 FR 33066), EPA promulgated regulations to govern the management of hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA). As part of these rules, EPA defined "hazardous waste" to include, among other things, mixing hazardous waste with other solid waste or otherwise managing hazardous waste (40 CFR 261.3). These rules are known, respectively, as the "mixture" and "derived-from" rules. The Agency promulgated these rules to close a potentially major loophole in the hazardous waste management system. Without a "mixture" rule, generators of hazardous waste could perhaps evade regulatory requirements by mixing hazardous waste with non-hazardous waste and claiming that the mixture was no longer hazardous, even though it poses environmental hazards. Without a "derived-from" rule, owners and operators of treatment, storage, and disposal facilities could perhaps evade regulation by minimally processing a hazardous waste and claiming that the residue was no longer hazardous.

On December 6, 1991, a panel of the United States Court of Appeals for the District of Columbia Circuit ruled that EPA had failed to give sufficient notice and opportunity for comment in promulgating the "mixture" and "derived-from" rules. The court therefore vacated the rules and remanded them to the Agency. On January 21, 1992, EPA filed a petition for rehearing with the court. This petition was denied on February 12, 1992. At the invitation of the court, EPA is today simultaneously removing and reissuing 40 CFR 261.3, including the "mixture" and "derived-from" rules, on an interim basis under section 553(b)(3)(B) of the Administrative Procedure Act (APA). Elsewhere in today's **Federal Register**, the Agency is soliciting comment on these rules and on other ways to regulate waste mixtures and residues.

DATES: *Effective date:* This rule is effective on February 18, 1992.

Expiration date: Paragraphs (a)(2)(iv) and (c)(2)(i) of 40 CFR 261.3 shall expire on April 28, 1993.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 or (703) 920-9810. For technical information contact Ms. Marilyn Goode, Office of Solid Waste (0S-332), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 260-8551.

SUPPLEMENTARY INFORMATION:

Outline

I. Authority

These regulations are promulgated under the authority of sections 1006, 2002(a), and 3001-3005 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6905, 6912(a), and 6921-6925.

II. Background

A. Statutory Framework

Subtitle C of RCRA required EPA to establish a comprehensive national program for safely treating, storing, and disposing of hazardous waste. The statute defined "hazardous waste," in part, as a "solid waste" which may "pose a substantial present or potential hazard to human health and the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." Pursuant to subtitle C, the Agency was required to develop and promulgate criteria for identifying characteristics of hazardous waste and to list particular wastes as hazardous. Subtitle C also required EPA to promulgate regulations governing the management practices of generators, transporters and those who own or operate hazardous waste treatment, storage, or disposal facilities.

B. EPA's Definition of "Hazardous Waste"

On May 19, 1980 (45 FR 33066), the Agency published final rules governing the management of hazardous waste. Under the final rules, the definition of hazardous waste included characteristic hazardous wastes, listed hazardous wastes, and mixtures of solid waste and one or more listed hazardous wastes. Wastes are characteristically hazardous if they exhibit any of four characteristics: Ignitability, corrosivity, reactivity, or toxicity. Wastes are listed as hazardous if they exhibit any of the four characteristics, if they meet toxicity criteria, or if they contain certain toxic constituents (see 40 CFR 261.10-24.)

The provision governing mixtures of solid waste and listed hazardous waste is known as the "mixture rule" (currently 40 CFR 261.3(a)(2)(iv)). As promulgated in May 1980, it required that a waste be managed as hazardous if it is a mixture of solid waste and one or more listed hazardous wastes and has not been delisted. "Delisting" is a procedure whereby a person may file a petition with EPA to remove a specific waste from the hazardous waste listing by demonstrating that the waste in question does not pose a hazard (see 40 CFR 260.22).

In addition, the May 19, 1980 final rules included the "derived-from" rule (currently 40 CFR 261.3(c)(2)(i) and (d)(2)). It states that any solid waste generated from the treatment, storage, or disposal of a listed hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, remains a hazardous waste unless and until delisted. Under these rules, the person who manages the wastes has the burden of proving that they are no longer hazardous.

The Agency promulgated the "mixture" and "derived-from" rules to close potentially major loopholes in the subtitle C management system. Without a "mixture" rule, generators of hazardous waste could potentially evade regulatory requirements by mixing listed hazardous waste with non-hazardous solid waste to create a waste that arguably no longer meets the listing description but continues to pose a serious hazard and does not exhibit any of the four characteristics. Likewise, without a "derived-from" rule, owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) could potentially evade regulation by minimally processing or managing a hazardous waste and claiming that the resulting residue was no longer the listed waste, despite the continued hazards that could be posed by the residue even though it does not exhibit a characteristic.

EPA promulgated the "mixture" and "derived-from" rules in interim final

form, while requesting comment on them. The Agency received many comments on the rules, and also participated in settlement discussions with all of the petitioners who challenged the rules. As a result of the comments and discussions, EPA amended the rules in 1981 to exempt certain wastewater management practices from the "mixture" rule and to make certain other changes (see CFR 261.3(a)(2) (iii) and (iv), 46 FR 56588, November 17, 1981). The Agency has also amended these rules several times since 1981 to create other exceptions to the "mixture" and "derived-from" rules (see 40 CFR 261.2(c)(ii)).

C. Court Decision

Numerous petitions for judicial review were brought to challenge the May 19, 1980 final rules. One of the challenges alleged that the definition of hazardous waste proposed on December 18, 1978 did not adequately discuss the "mixture" and "derived-from" rules promulgated in the final regulations. The petitioners thus argued that they were deprived of adequate notice and opportunity to comment as required by the Administrative Procedure Act (APA) (5 U.S.C. 553(b)).

On December 6, 1991, the court ruled that the 1978 proposal did not adequately provide notice of either rule and that the petitioners thus did not have sufficient opportunity to comment (*Shell Oil Co.* v. *EPA*, no. 80-1532 *et al.* (D.C. Cir., December 6, 1991)). The court vacated the rules and remanded them to the Agency because of procedural defects. However, the court did not address any of the substantive issues raised by the petitioners concerning the rules. On January 21, 1992, EPA filed a petition requesting that the court reconsider its decision. The court denied this petition on February 12, 1992.

In its December 6, 1991 decision, the court recognized the dangers that may be posed by a discontinuity in the regulation of hazardous waste, and suggested that the Agency could reinstate the rules in whole or in part on an emergency basis under the "good cause" exemption of the APA. Such a reinstatement would prevent disruption in ongoing implementation of the hazardous waste program while allowing EPA to request comment on the rules and cure the procedural defect.

III. EPA's Response to the Court Decision: Reasons for Reinstatement

Today's rule responds to the court's suggestion that EPA reinstate the rules on an interim basis pending full notice and comment. EPA is aware of concerns that have arisen about the rules since they were first promulgated in 1980. Nevertheless, EPA believes that interim reinstatement is important because human health and the environment could be harmed and the national hazardous waste program significantly disrupted if the rules were allowed to lapse. The total effect of a disappearance of the "mixture" and "derived-from" rules is difficult to foresee, but it is clear that the consequences could be serious. Following are some possible effects of a lapse in the rules.

Environmental Effects

If the rules were not in effect, the federal regulations would still apply to listed hazardous wastes when the wastes were generated, but the status of these wastes under subtitle C after they were managed or mixed would be thrown into question. The Agency has acknowledged that, in some cases, these wastes may present little risk. Nevertheless, many wastes are still toxic after they are managed or mixed, often presenting the same hazard as when the waste was generated. EPA notes that some hazardous waste listings were based on information about environmental damage caused in the mixed or derived-from state of the waste. For example, leachate from hazardous waste which has been disposed of is produced by liquid percolating through the waste; it sometimes contains heavy metals and organic materials which render it highly toxic. Treatment residues, by definition, contain waste constituents which were removed during treatment or which were not completely destroyed by treatment. Wastewaters from facilities that treat hazardous waste may contain significant amounts of the toxic substances that were in the wastes. Ash from incinerating hazardous wastes often contains heavy metals and, if combustion is not complete, undestroyed toxic organic materials. EPA has placed in the docket for this notice data indicating that "mixture" and "derived-from" wastes can contain high concentrations of hazardous constituents.

The Agency acknowledges that some "mixture" and "derived-from" wastes would still be covered under existing regulations. An interpretation of the regulations under which the slightest mixing or management rendered a listed waste non-hazardous would clearly be unreasonable. Nevertheless, if the rules were no longer in effect, the possibility of confusion and erroneous waste classifications would surely increase, resulting in greater potential for harm to human health and the environment.

For example, if the "mixture" and "derived-from" rules were not in effect, some wastes might be mistakenly classified as non-hazardous and disposed of in a municipal landfill or unregulated industrial landfill. EPA could find it extremely difficult to track these disposals, so that any environmental problems they caused might be exacerbated by delay and could ultimately require more costly cleanups. It is true that the current land disposal restrictions (LDR) program would require treatment and tracking of certain mixed and derived-from wastes, since the LDR restrictions apply at the point of a waste's generation (see 55 FR at 22651-52, June 1, 1990). Likewise, the prohibition on dilution as a substitute for adequate treatment likewise normally applies at the point of generation (see 40 CFR 268.3(a)). As a result, those wastes restricted from land disposal which clearly meet the listing description at the point of generation would still be subject to the treatment standards of RCRA at 40 CFR part 268 (as well as the waste analysis, tracking and recordkeeping requirements associated with that program) even if the wastes were later mixed with other wastes, or, in some cases, even if subsequently managed (see 55 FR 22661).

However, wastes may be mixed with other wastes at the point of generation, so that they arguably would not meet the listing description at that point and so would not be subject to LDRs. In addition, the Agency's interpretation that the LDR program applies to wastes which are hazardous as generated, even if they are later rendered "non-hazardous" (i.e., they no longer meet the listing description) is subject of litigation in the D.C. Circuit Court of Appeals (see *Chemical Waste Management* v. *EPA*, No. 90-1230 (D.C. Cir.)). Some members of the regulated community will argue that their "derived-from" wastes no longer meet the listing description and thus would no longer be subject to LDRs. Moreover, the treatment process itself would not be regulated if only the LDRs applied to the waste. And finally, even if some wastes would be tracked under the LDR program, that program was not designed as a manifest system and would provide limited information. For example, LDR tracking does not require discrepancy reports, so that wastes which have allegedly been sent to a disposal facility but which do not arrive would not be accounted for.

Similarly, many mixed and derived-from wastes are not restricted from land disposal and thus are not subject to LDRs. If they were not hazardous

wastes, mixed wastes could be burned as fuel in schools and homes, and processed into consumer and commercial products, all without any federal controls. Some surface impoundments receiving mixed or derived-from waste might no longer be subject to groundwater monitoring and corrective action. In addition, if the "mixture" and "derived-from" rules were no longer in effect, many facilities that currently require RCRA permits would no longer need them; consequently, hazardous waste management facilities would no longer need to clean up any contamination at their sites as a condition of their RCRA permits. Waste derived from managing the original waste (e.g., leachate, residues from storage, and concentrated treatment reisdues such as distillation bottoms) many likewise go unregulated.

If the "mixture" and "derived-from" rules were not in effect, the Agency's RCRA enforcement program would also be damaged, with potential danger to human health and the environment. EPA has preliminarily identified over 100 federal administrative, civil, and criminal enforcement cases based in whole or in part on the mixture and derived from rules currently pending or recently concluded. Many of these cases involved the possibility of contaminated groundwater, soil, or air from wastes defined as hazardous under the "mixture" and "derived-from" rules. Further, in most of the latter cases, the wastes could cause potential harm to humans due to the possibility of immediate direct exposure or off-site migration leading to subsequent exposure. In addition, the "mixture" and "derived-from" rules play a major part in facilitating the Agency's enforcement actions. Without these rules, extensive waste sampling and analysis would be needed in many enforcement cases. These procedures would require significant reallocation of Agency enforcement resources and would often impede prompt enforcement action, leading to environmental hazards in cases where prompt action was necessary.

Implementation of RCRA requirements is, in large part, carried out by authorized State hazardous waste management programs, many of which currently have "mixture" and "derived-from" rules as a matter of independent State law. However, many of the wastes lost to the national program might not be captured by State hazardous waste programs. Many of the State "mixture" and "derived-from" rules may be tied to or refer to the scope of the federal rules. For example, many States simply incorporate the federal rules by reference. Some forms of incorporation by reference might be adversely affected by the removal of the federal rules. Other States are prohibited from providing requirements more stringent than the federal government. Changes in the scope of the federal program could cause contractions in the scope of many State programs. Such a contraction has already occurred in at least one State where a court has invalidated the "mixture" and "derived-from" rules. These changes could cause some persons to shift disposal of hazardous waste to States with less stringent rules. Even where States' independent authorities were not directly undermined by removal of the rules, confusion among the regulated community could undermine compliance with State laws.

The Agency also believes that removal of the "mixture" and "derived-from" rules could undermine incentives to prevent pollution and minimize the generation of hazardous waste. Some firms currently segregate highly toxic waste from their wastewater streams to minimize the generation of hazardous waste, or to make resource recovery easier. Without these rules, the incentives to segregate these wastes will be changed, even in cases where segregation would facilitate more cost-effective treatment or reduction in the generation of hazardous wastewaters.

Program Disruption

The absence of clear federal rules governing the status of mixed and derived-from wastes over the interim could disrupt existing programs, presenting the regulators, the regulated community, and the public with considerable uncertainty about the scope and effect of Subtitle C regulation. In support of this view, several interested parties have urged the Agency to reinstate the rules as quickly as possible. Thirty-eight State Attorneys General and many State solid waste management officials have stated that if the rules are allowed to lapse, the regulatory structure would be thrown into chaos. As the Agency responsible for carrying out the national hazardous waste program, EPA believes that allowing the sudden and extreme disruption of the program would not be justified. Instead, EPA agrees with the State officials that the best course of action under the circumstances is to reinstate the rules on an interim basis, while seeking comment on future regulatory changes.

For all of the above reasons, the Agency has decided to reinstate the "mixture" and "derived-from" rules on an interim basis under the "good cause" exemption of 5 U.S.C. 553(b)(3)(B), pending full notice and opportunity for comment. EPA is soliciting comment on these rules and on other ways to regulate waste mixtures and residues elsewhere in today's **Federal Register.** This reinstatement will give the Agency the time to sort through more fully the implications of alternative regulatory approaches and understand the scope and effect of current subtitle C rules.

While today's reinstatement is based on the importance of the "mixture" and "derived-from" rules and the need to avoid sudden disruption in the RCRA regulatory framework, the Agency recognized that the court has ruled that these extremely important rules did not receive adequate notice and comment. As noted earlier, the Agency is already considering modifications to the rules and will also examine comments received on today's notices. Therefore, EPA has determined that this interim final reinstatement should not remain in effect indefinitely. Because EPA anticipates that it may take until late April 1993 to reconsider these rules, it has added a termination date of April 28, 1993 to this reinstatement. However, the Agency will make every effort to expedite this rulemaking. By April 28, 1992, EPA will publish a **Federal Register** notice further explaining options it is considering and seeking public comment on those options. The unmodified "mixture" and "derived-from" rules will expire April 28, 1993 unless EPA, after considering comments, makes a final determination to retain these rules in their current form.

IV. Retroactive Effect of Court Decision

Since the issuance of the *Shell Oil* decision, EPA has received many questions about whether the court's vacature of the rules is retroactive, thus nullifying the "mixture" and "derived-from" rules as of 1980. As explained below, the Agency believes that the *Shell Oil* decision is not intended to be retroactive. As a result, today's decision to retain action to reinstate the "mixture" and "derived-from" rules maintains without interruption the legal framework for the regulation of hazardous waste originally established under RCRA in 1980. EPA is also maintaining the Agency's past policy interpretations of these rules.

The Agency has interpreted the court's decision in this manner for several reasons. The court's opinion suggests that it was not intended to void the rules from the date of their 1980 promulgation. The court was fully aware that the rules had remained in effect

during the lengthy litigation (*Shell Oil* v. *EPA*, no. 80–1532 *et al.* (D.C. Cir., December 6, 1991) (slip op. at 7)). In remanding the rules to the Agency, the court suggested that they be immediately reenacted by EPA on an interim basis to avoid dangers from any discontinuity in the regulation of hazardous wastes. Slip op. at 20–21. EPA believes that the court's concern about regulatory discontinuity would be inconsistent with a decision that retroactively voided the rules. If the rules have been void since 1980, their reinstatement would greatly change, rather than preserve, the current program.

Moreover, the Agency believes that its interpretation of the court's decision is consistent both with relevant case law concerning the retroactivity of judicial decisions (see *Chevron Oil Co.* v. *Huson*, 404 U.S. 97 (1971), and with the general practice of the D.C. Circuit (see, e.g., *American Gas Association* v. *FERC*, 888 F. 2d 136, 150 (D.C. Cir. 1989)). EPA's action today to reinstate the rule and cure any procedural defect through notice and comment thus maintains the legal definition of "hazardous waste," along with the Agency's past interpretations of that definition.

V. Solite Decision

On December 31, 1991, the U.S. Court of Appeals for the D.C. Circuit issued a decision concerning mixtures of hazardous waste and wastes subject to the "Bevill" exclusion for mineral processing wastes (see *Solite Corp.* v. *EPA*, No. 89–1629 (D.C. Cir., December 31, 1991)). Following is the background of the *Solite* decision and EPA's interpretation of how the decision is related to today's rule.

On September 1, 1989 (54 FR 36592), EPA issued rules defining the scope of the "Bevill" exclusion for mineral processing wastes. In the context of that rulemaking, EPA announced that the "mixture rule" would apply to mixtures of listed hazardous wastes and Bevill-exempt solid wastes from mining and mineral processing, just as the rule applies to mixtures of listed wastes and any other non-hazardous solid waste. The Agency explained that its interpretation was consistent with the rationale for the "mixture rule," and would ensure that hazardous wastes would not be improperly excluded from subtitle C regulation merely by being mixed with a Bevill-exempt waste.

EPA also confirmed that the hazardous wastes characteristics also apply to mixtures of characteristically hazardous wastes and Bevill-exempt wastes from mining and mineral processing, unless the resulting mixture did not exhibit a characteristic or exhibited a characteristic imparted to the mixture solely from the Bevill-exempt wastes (see 40 CFR 261.3(a)(2)(i) and (iii)). The Agency was concerned that facilities would improperly dilute their non-exempt hazardous wastes under the protection of the Bevill amendment. EPA did, however, allow the mixing of characteristic wastes and Bevill-exempt wastes where the resulting mixture no longer exhibits the characteristic of the unmixed waste, giving some relief for Bevill facilities which manage exempt and non-exempt wastes together.

Several industry petitioners challenged the September 1, 1989 rules. Among the issues raised were the application of the "mixture rule" to Bevill-exempt mining and mineral processing wastes and the status of mixtures of characteristic wastes and Bevill-exempt wastes. On December 31, 1991, the U.S. Court of Appeals for the D.C. Circuit issued the *Solite* decision, which upheld the September 1, 1989 rules in nearly all respects. With respect to the "mixture rule," however, the court remanded the issue to the Agency without opinion. The court noted that—

> (I)n extending the Subtitle C mixture rule to the Bevill context, EPA assumed the validity of that rule. . . . Were the Subtitle C mixture rule still in place, the Bevill mixture rule might well constitute a reasonable extension of it. . . . If the EPA desires to and successfully does repromulgate the Subtitle C rule, it will similarly be able to repromulgate the Bevill rule, and attempt to justify the latter by reference to the former. Alternatively, the Agency may wish to justify the Bevill rule on independent grounds.

(slip op. at 38–39).

The court's opinion did not explicitly address the status of EPA's rule change regarding the application of the hazardous waste characteristics to mixtures of Bevill-exempt wastes. The court in *Shell Oil* vacated the "mixture rule" of 40 CFR § 261.3(a)(2)(iv), which addresses mixtures of listed wastes and other solid wastes. Thus, to the extent that the *Solite* court addressed mixtures involving listed and Bevill wastes, today's action will reinstate the affected rules. However, since the *Shell Oil* court did not address mixtures of characteristic and Bevill wastes, that part of the decision by the *Solite* court appears to be in error. EPA is considering requesting clarification of this issue from the *Solite* court.

VI. Compliance With Other Requirements

A. Administrative Procedure Act (APA)

Section 553 of the APA generally requires federal agencies to provide notice in the **Federal Register** and opportunity for public comment before promulgating a rule. However, section 553(b)(3)(B) provides that the agency may promulgate a rule without prior notice and opportunity for public comment if the agency finds that such procedures would be "impracticable, unnecessary, or contrary to the public interest" with respect to the rule at issue. The finding of "good cause" and the reasons for the finding must be published with the rule.

EPA has ample "good cause" to repromulgate the RCRA "mixture" and "derived-from" rules without prior notice and comment. The court in *Shell Oil* specifically suggested that to avoid potential disruption of the hazardous waste management program from the remand, EPA should immediately reinstate the rules on an interim basis under the "good cause" exemption of the APA. *Shell Oil* v. *EPA*, No. 80–1532 *et al.* (D.C. Cir., December 6, 1991), slip op. at 21. This immediate reinstatement thus allows EPA to maintain the *status quo* until the Agency can cure the procedural defect identified by the court through notice and comment.

As discussed in detail earlier in today's notice, EPA believes that reinstating these rules on an interim basis is essential to prevent serious harm to human health and the environment and to avoid substantial confusion for the regulated community. As noted above, many States which implement the RCRA hazardous waste program support the Agency's assessment of the need for reinstatement. The Agency also believes that the need for reinstatement is immediate. The court's mandate vacating the rules may take effect seven days after denial of EPA's request for rehearing. Therefore, prior notice and opportunity for comment on the remanded rules is impracticable. If the Agency employed the full notice and comment procedures of section 553 of the APA before reinstatement, a lapse in the "mixture" and "derived-from" rules would be inevitable, with subsequent potential for serious damage to the environment. This would be contrary to the public interest. In addition, EPA believes that the necessity for prior notice and comment is significantly lessened by the fact that the rules in question have been implemented for over a decade, they are reinstated on an interim basis, and today's notice requests comment on the "mixture" and "derived-from" rules. Moreover, the Agency has already received a great deal of comment on these rules over the past 11 years. As noted above, much of

this comment was in response to the 1980 rules themselves, and has resulted in several amendments to the mixture rule. In addition, EPA had several meetings with interested parties before promulgation of this reinstatement to discuss the Agency's response to the court decision and received extensive comment on reinstatement. The substantial body of existing comments provides a further reason for finding "good cause." For the reasons noted above, EPA also believes that it has good cause to make these rules immediately effective. See 5 U.S.C. 553(d)(3).

B. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). This rule reinstates on an interim basis rules that were first promulgated in 1980, before the enactment of Executive Order 12291. Thus, EPA did not perform and does not now have reliable estimates of the potential costs and benefits expected to have resulted from these rules. While EPA does not believe an RIA is needed for this reinstatement given that it imposes no new costs beyond what has been in place for some time, the Office of Management and Budget has declared modifications to the "mixture" and "derived-from" rule to be major rules. Thus, EPA will complete a regulatory Impact Assessment for the modifications.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA and other agencies to prepare an initial regulatory flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because today's rule merely reinstates existing requirements on an interim basis, I hereby certify, pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

D. Paperwork Reduction Act

This rule contains no information collection requirements which need approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: February 18, 1992.

William K. Reilly,

Administrator.

40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6933.

2. Section 261.3 is revised to read as follows:

§ 261.3 Definition of hazardous waste.

(a) A solid waste, as defined in § 261.2, is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under § 261.4(b); and

(2) It meets any of the following criteria:

(i) It exhibits any of the characteristics of hazardous waste identified in subpart C except that any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under § 261.4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under subpart C of this part only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred or if it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Extraction Procedure Toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in table I to § 261.24 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

(ii) It is listed in subpart D of this part and has not been excluded from the lists in subpart D of this part under §§ 260.20 and 260.22 of this chapter.

(iii) It is a mixture of a solid waste and a hazardous waste that is listed in subpart D of this part solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C of this part, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in subpart C of this part or unless the solid waste is excluded from regulation under § 261.4(b)(7) and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in subpart C of this part for which the hazardous waste listed in subpart D of this part was listed.

(iv) It is a mixture of solid waste and one or more hazardous wastes listed in subpart D of this part and has not been excluded from paragraph (a)(2) of this section under §§ 260.20 and 260.22 of this chapter; however, the following mixtures of solid wastes and hazardous wastes listed in subpart D of this part are not hazardous wastes (except by application of paragraph (a)(2) (i) or (ii) of this section) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

(A) One or more of the following solvents listed in § 261.31—carbon tetrachloride, tetrachloroethylene, trichloroethylene—*Provided*, That the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million; or

(B) One or more of the following spent solvents listed in § 261.31—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

(C) One of the following wastes listed in § 261.32—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

(D) A discarded commercial chemical product, or chemical intermediate listed in § 261.33, arising from *de minimis* losses of these materials from manufacturing operations in which these materials are used as raw materials or

are produced in the manufacturing process. For purposes of this paragraph (a)(2)(iv)(D), "*de minimis*" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinstate from empty containers or from containers that are rendered empty by that rinsing; or

(E) Wastewater resulting from laboratory operations containing toxic (T) wastes listed in Subpart D of this part, *Provided*, That the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

(b) A solid waste which is not excluded from regulation under paragraph (a)(1) of this section becomes a hazardous waste when any of the following events occur:

(1) In the case of a waste listed in Subpart D of this part, when the waste first meets the listing description set forth in subpart D of this part.

(2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in subpart D is first added to the solid waste.

(3) In the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in subpart C of this part.

(c) Unless and until it meets the criteria of paragraph (d) of this section:

(1) A hazardous waste will remain a hazardous waste.

(2)(i) Except as otherwise provided in paragraph (c)(2)(ii) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

(ii) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste:

(A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).

(B) Waste from burning any of the materials exempted from regulation by § 261.6(a)(3)(v) through (ix).

(d) Any solid waste described in paragraph (c) of this section is not a hazardous waste if it meets the following criteria:

(1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in subpart C of this part.

(2) In the case of a waste which is a listed waste under subpart D of this part, contains a waste listed under subpart D of this part or is derived from a waste listed in subpart D of this part, it also has been excluded from paragraph (c) of this section under §§ 260.20 and 260.22 of this chapter.

(e) *Sunset provision.* Paragraphs (a)(2)(iv) and (c)(2)(i) of this section shall remain in effect only until April 28, 1993.

[FR Doc. 91-4255 Filed 3-2-91; 8:45 am]

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federal register

Tuesday
March 3, 1992

Part V

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Definition of Hazardous Waste; "Mixture" and "Derived From" Rules; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-4109-1]

Hazardous Waste Management System; Definition of Hazardous Waste; "Mixture" and "Derived From" Rules

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 19, 1980 (45 FR 33066), EPA promulgated regulations to govern the management of hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA). As part of these rules, EPA defined "hazardous waste" to include, among other things, mixing hazardous waste with other solid waste or otherwise managing hazardous waste (40 CFR 261.3). These rules are known, respectively, as the "mixture" and "derived-from" rules.

On December 6, 1991, a panel of the United States Court of Appeals for the District of Columbia Circuit ruled that EPA had failed to give sufficient notice and opportunity for comment in promulgating the "mixture" and "derived-from" rules. The court therefore vacated the rules and remanded them to the Agency. On January 21, 1992, EPA filed a petition with the court requesting reconsideration of its decision. The court has denied this petition. At the invitation of the court, EPA is simultaneously removing and reissuing 40 CFR 261.3, including the "mixture" and "derived-from" rules, on an interim basis under section 553(b)(3)(B) of the Administrative Procedure Act (APA). The interim final rule which removes and reissues 40 CFR 261.3 is published elsewhere in today's **Federal Register**.

Today's notice of proposed rulemaking solicits comment on the "mixture" and "derived-from" rules and on other approaches to regulating waste mixtures and residues.

DATES: EPA will accept public comments on this proposed rule until April 2, 1992. Comments postmarked after this date may not be considered.

ADDRESSES: The public must send an original and two copies of all comments to: EPA RCRA Docket (OS-305), 401 M St., SW., Washington, DC 20460. The comments must be marked with the docket number F-92-MDFP-FFFFF. The Office of Solid Waste (OSW) docket is located in room 2427 at the above address, and is open from 9 a.m. to 4 p.m. Mondays through Fridays, except Federal holidays. The public must make an appointment to view docket materials by calling (202) 260-9327. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 or (703) 920-9810. For technical information contact Ms. Marilyn Goode, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 260-8551.

SUPPLEMENTARY INFORMATION:

OUTLINE

I. Authority

These regulations are proposed under the authority of sections 1006, 2002(a), and 3001-3005 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6905, 6912(a), and 6921-25.

II. Background

For the background to this proposed rule and a discussion of the remanded "mixture" and "derived-from" rules, see the Response to Court Remand: Interim Final Rule published elsewhere in today's **Federal Register**.

III. Solicitation of Comments

The Agency solicits comment on the appropriateness of the "mixture" and "derived-from" rules, and invites the public to suggest alternative approaches for regulating waste mixtures and residues. In the preamble to the final rules, EPA acknowledged that the "mixture" and "derived-from" rules would result in the regulation under subtitle C of some mixtures and residues with low concentrations of hazardous constituents. However, EPA concluded that the waste-specific delisting process would allow the removal of many such wastes from the hazardous waste system. In its 1990 RCRA Implementation Study (RIS), EPA acknowledged that there is a subset of wastes in the subtitle C system that can be managed just as effectively in a less restrictive fashion. The Agency still believes that to be the case, and has been considering several ways to address these concerns.

EPA believes that the decision in *Shell Oil* v. *EPA* (no. 80-1532 *et al.* (D.C. Cir., December 6, 1991)) provides a timely and appropriate opportunity to re-examine the scope of the "mixture" and "derived-from" rules. The Agency is therefore requesting comment in this notice on the impacts of the rules and on alternative ways to revise them. Specifically, EPA invites comment on which wastes are brought into the subtitle C system by the "mixture" and "derived-from" rules, and which of these wastes are not appropriately regulated under subtitle C. EPA welcomes comment on the risks these wastes present, the extent to which the "mixture" and "derived-from" rules reduce these risks, and the extent to which the wastes are already covered by other RCRA management requirements. The Agency also solicits comments on the costs of the "mixture" and "derived-from" rules. EPA anticipates that commenters will have both anecdotal and quantitative information. The Agency is particularly interested in information that reflects actual situations and the effects of the current regulatory regime.

EPA is considering alternative ways of addressing the problems posed by waste mixtures and by the wastestreams and residual materials associated with treating hazardous waste. One option would be a rule which would establish concentrations of hazardous constituents (measured either in leachate or in the waste itself) below which a waste, a mixture, or a residue would no longer be considered hazardous. The Agency believes that such concentrations should preferably be based upon an assessment of the health and environmental risks posed at varying concentrations. Concentration levels could also be based on attributes of particular wastes or materials.

EPA will consider options similar to that discussed in the December 18, 1978 proposal (43 FR 58947). Under that proposal, a listed waste would be delisted from subtitle C, and thus no longer subject to regulation, if a regulated party demonstrated that the waste did not exhibit any of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, and toxicity). In the 1978 notice, EPA solicited comment on four characteristics in addition to the four that have since been promulgated. Then, in the preamble to the May 19, 1980 final rules, the Agency noted that it had listed certain wastes because they pose hazards that were not reflected by any of the four characteristics promulgated in 1980 (e.g. the listed waste contained

carcinogens not covered by the then Extraction Procedure characteristic nor the subsequent toxicity characteristic). Further, in 1984, Congress added the statutory requirement in 3001(f) of RCRA that, when evaluating delisting petitions, "the Administrator shall consider factors (including additional constituents) other than those for which the waste was listed in the Administrator has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste." The Agency solicits comment on options that are similar to the 1978 proposal, but address the issue noted by EPA in 1980 and the statutory amendments added in 1984.

EPA welcomes comment on all of the options discussed above and on any others that would achieve the statutory goal of protecting human health and the environment. Meanwhile, EPA has been discussing these issues with interested parties and considering possible modifications to these rules. By April 28, 1992, EPA will publish a **Federal Register** notice further explaining options the Agency is considering and seeking public comments on those options.

IV. Executive Order 12291

Under Executive Order No. 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). The "mixture" and "derived-from" rules were first promulgated in 1980, before the enactment of Executive Order No. 12291. Thus, EPA did not perform and does not now have reliable estimates of the potential costs and benefits expected to have resulted from these rules. The Office of Management and Budget has declared the "mixture" and "derived-from" rules to be major rules under Executive Order No. 12291. Therefore, EPA will conduct an RIA before final promulgation.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA and other agencies to prepare an initial regulatory flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because this proposal, if promulgated, would result in fewer wastes being regulated as hazardous wastes under subtitle C, it would impose no new costs or economic impacts on small entities. I hereby certify, pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

VI. Paperwork Reduction Act

This proposal contains no information collection requirements which need approval by the Office Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated February 18, 1992.

William K. Reilly,

Administrator.

[FR Doc. 92-4256 Filed 3-2-92; 8:45 am]

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federal register

Tuesday
March 3, 1992

Part VI

Department of Transportation

Coast Guard

46 CFR Part 68

Vessel Documentation and Measurement; Oil Spill Cleanup Vessels; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 68

[CGD 90-055]

RIN 2115-AD65

Documentation of Certain Vessels for Purposes of Oil Spill Cleanup

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing procedures for documenting certain vessels with a limited coastwise endorsement. This final rule implements provisions of the Oil Pollution Act of 1990 under which the United States citizenship requirements for vessel documentation are relaxed for vessels which are used to clean up and transport oil discharged into the navigable waters of the United States or the Exclusive Economic Zone. These regulations will improve oil spill cleanup resources.

EFFECTIVE DATE: These regulations are effective April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Willis, Chief, Vessel Documentation and Tonnage Survey Branch, (202) 267-1492.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Ray L. Bunnell, Project Manager, and Pamela M. Pelcovits, Project Counsel, Oil Pollution Act of 1990 (OPA 90) Staff.

Background and Purpose

Federal documentation of vessels serves as a type of national registry, establishing a vessel's qualification for specific uses. Endorsements on a Certificate of Documentation specify how a vessel may be employed. The Coast Guard has the authority to regulate and issue Certificates of Documentation and endorsements to qualified vessels. Documentation is a complex subject, covered by many statutory requirements.

On August 18, 1990, the President signed the Oil Pollution Act of 1990 (Pub. L. 101-380) (OPA 90). Section 4205 of OPA 90 amends 46 U.S.C. 12106, which contains the requirements for coastwise endorsements, to add a new paragraph (d). The effect of the amendment is to remove the requirements of 46 U.S.C. App. 802 for certain vessels used for oil spill cleanup.

Under this amendment, a vessel owned by a not-for-profit oil spill response cooperative (coop) or by members of such a coop (and dedicated to the coop) may be issued a Certificate of Documentation with a coastwise endorsement if the vessel is at least 50 percent owned by an entity which meets the usual citizenship requirements established under 46 U.S.C. 12102(a). However, the use of the vessel under this limited endorsement is restricted to training for oil spill cleanup; deploying equipment, supplies and personnel for cleanup operations; and recovering and transporting oil discharged in a spill.

A detailed description of the regulations developed to implement this amendment can be found in the Notice of Proposed Rulemaking (NPRM) which was published in the **Federal Register** on September 11, 1991 (56 FR 46268). The regulations implement the OPA 90 amendment to 46 U.S.C. 12106 by setting out the procedures for this special use documentation of vessels under the relaxed citizenship requirements in a new subpart 68.05 to title 46 of the Code of Federal Regulations. The Coast Guard received six responses to its request for written comments.

Discussion of Comments and Changes

One response, submitted by the California Department of Fish and Game, supported the NPRM as providing the potential for more vessels to be available for oil spill cleanup.

The comment of ABS Americas, a division of the American Bureau of Shipping, noted that the proposed regulations did not include technical standards for oil recovery vessels and requested that reference to such standards be included in the regulations. Technical standards for recovery vessels are outside the scope of these regulations which provide citizen ownership requirements and documentation procedures. The Coast Guard has not changed its proposal in response to this comment.

The response of the Marine Industry Response Group (MIRG) addressed several issues. First, MIRG asserted that § 68.05-5(b) of the proposed regulations does not provide for the limited coastwise endorsement to be available to a coop organized as an association, trust, or joint venture which has members that are not United States citizens. MIRG stated that this result is contrary to the language of 46 U.S.C. 12106(d) which expressly states that a Certificate of Documentation for the limited purposes of oil spill cleanup is available to a vessel owned by a coop or its members.

This comment does not describe properly the statutory basis for the limited coastwise endorsement provided by OPA 90. The amendment authorizes issuance of a Certificate of Documentation with a limited coastwise endorsement if a vessel meets all of the following four requirements: (1) Ownership by a coop or by a member or members who dedicate the vessel to coop use; (2) at least 50 percent ownership by persons or entities who meet the usual citizenship requirements for documentation; (3) qualification under all other requirements for coastwise trade; and (4) usage under the endorsement is restricted to cleanup and support activities. Accordingly, no change to the proposed regulations has been made.

MIRG also responded to the request for comments on how the not-for-profit status of a coop should be determined and suggested that state laws should be applied. The Coast Guard intends to rely on self-certification of coops, and no change to the regulations is made. However, the Coast Guard agrees that application of state laws, as well as Federal law (e.g., the Internal Revenue Code), would be appropriate in investigating individual cases where the Coast Guard has questions about the not-for-profit status of a coop.

MIRG also commented that the definition of a coop, as set out in the proposed regulations, adequately addresses its organizational status. The definition of "cooperative" in § 68.05-3 provides flexibility in recognizing any not-for-profit entity established under the laws of the United States or of a State. Accordingly, no change to the regulations has been made.

Finally, MIRG commented that § 68.05-9(a) of the proposed regulations appears to limit vessels, documented under subpart 68.05, to operating only on the navigable waters of the U.S. and in the Exclusive Economic Zone. In fact, the section sets out the limits to the coastwise endorsement provided by OPA 90 (i.e., limits on legal operation within U.S. jurisdiction) but does not address or limit the vessel's ability to operate in waters outside U.S. jurisdiction.

The comments of the Marine Spill Response Corporation (MSRC) requested that the Coast Guard expand the definition of a coop and the privileges conferred by a limited coastwise endorsement to make specific reference to oil spill-related research and development. While there is no indication that research or development was the intent of the OPA 90 amendment, the Coast Guard does not intend to prohibit research activities that do not fall within the definition of coastwise trade. Section 68.05-9 has

been revised to make it clear that vessels documented under this subpart are permitted to engage in activities for which endorsements are not required. The definition of "cooperative" in § 68.05–3 also has been changed to refer to research activities.

The Offshore Marine Service Association (OMSA) submitted several comments. First, OMSA commented on how the not-for-profit status of a coop could be established. The Coast Guard has responded to that comment above.

The Coast Guard agrees with OMSA's comment that an individual cannot meet the definition of a coop. OMSA has correctly determined that the reference to an individual in § 68.05–5 is included to apply to members of a coop who might document a vessel under this subpart.

OMSA also commented on the other categories of ownership—i.e., corporation, partnership and trust, set out in § 68.05–5. With respect to corporations and partnerships, OMSA believes that additional provisos are needed to ensure that U.S. ownership requirements are not reduced to "insignificant levels." Moreover, OMSA stated that such changes are necessary to achieve "parity" with the standard for individual ownership of a vessel. The OPA 90 amendment which authorizes this limited coastwise endorsement specifically refers to the ownership requirements of 46 U.S.C. 12102(a). Thus, it is inaccurate to speak of "parity" between individuals and corporations with respect to documentation. In the case of ownership by individuals, a non-citizen owning even one percent of the interest in a vessel forecloses the possibility of documentation for any purpose. In the case of corporate ownership, a vessel is eligible for documentation for coastwise trade if up to 25 percent of the stock of the corporation is owned by a non-citizen. Furthermore, a vessel is eligible for documentation with a registry endorsement even if all the stock in the corporation is owned by non-citizens.

With respect to OMSA's comment that the category of trust should be revised to delete the reference to enforceable interest, the Coast Guard has determined that the proposed language is consistent with its interpretation that a vessel owned in a trust arrangement is not barred from documentation solely because a non-citizen with a non-enforceable interest as a beneficiary participates in the trust. Accordingly, no change is necessary.

OMSA's comments that §§ 68.05–5(d) and 68.05–7(b) of the regulations should be deleted are not accepted because these sections are drawn directly from the statutory language (46 U.S.C. 12106(d)(2)).

OMSA also requested that § 68.05–9(a)(2) and (a)(4) be revised to restrict vessels operating under the limited coastwise endorsement extended by OPA 90 from transferring personnel, supplies and equipment to vessels, facilities and other locations. The Coast Guard's position is that the restrictions suggested by OMSA would be contrary to the purpose of OPA 90 which is to improve oil spill cleanup resources. Such transfers are inherent in the concept of deployment of equipment, supplies, and personnel provided by OPA 90. Moreover, the number of vessels affected by this endorsement is too limited to produce the effect suggested by OMSA. However, § 68.05–9(a) has been reworded to remove repetitive language.

Finally, OMSA suggested that § 68.05–9(b) be deleted because it expands the privileges accorded by the limited coastwise endorsement provided by OPA 90. The Coast Guard does not agree. This section only provides that a vessel documented under the new subpart 68.05 is not precluded from obtaining other endorsements if it meets all the additional requirements for such endorsements. No change to the regulations is necessary.

Comments were received after the close of the comment period in a joint filing by the Association of Petroleum Industry Cooperative Managers and Clean Sound Cooperative, Inc. (referred to here as the joint comment). This comment repeated many of the points addressed by the other commenters.

The joint comment suggested that not-for-profit status is best determined by reference to state law but did not necessarily advocate any change to the regulation. This issue has been addressed above.

The joint comment endorsed the MSRC's comment on specifically addressing research and development in the regulations. The Coast Guard has discussed this point and the change to the regulations above.

In addition, the joint comment suggested that the wording of § 68.05–5(a) was confusing and needed a more specific description of "dedication." The Coast Guard had also identified this provision as needing clarification. Accordingly, the Coast Guard has revised § 68.05–5(a). The change makes clear that a vessel owned by a coop must meet the citizen owner requirements and be dedicated to the coop by its owners. While this change does not use the language suggested by the joint comment, it conforms better to the pattern of other citizenship requirements in part 67. Moreover, the Coast Guard finds that additional requirements on what constitutes "dedication" are not necessary in the regulations.

Next, the joint comment suggested substitute language for § 68.05–9 to "streamline" the regulations and emphasize the role of research and development activities. The Coast Guard has reworded the section to remove repetitive language and to make clear that research activities which may be outside the scope of any other endorsements are not prohibited.

Finally, the Coast Guard has made some minor technical changes to the wording and format of the regulations and the appendices to improve clarity and application.

Accordingly, the Coast Guard is issuing these final regulations as proposed, except for the changes discussed above.

Regulatory Evaluation

The Coast Guard has determined that this rulemaking is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Further, the Coast Guard finds the economic impact of these regulations to be so minimal that a Regulatory Evaluation is unnecessary.

This finding is based on the fact that the Coast Guard expects fewer than 10 applications annually in response to these regulations. Moreover, the sole cost associated with these regulations is in the small, additional paperwork required to receive documentation to operate, on a strictly limited basis, in the coastwise trade.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. The definition of small entities under this act includes not-for-profit enterprises, such as the coops covered by these regulations. The impact of these regulations on coops and their members is intended to be beneficial by relaxing documentation citizenship requirements.

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3502 *et seq.*), the Office of Management and Budget (OMB) has approved the Coast Guard's information collection requirements for documentation of vessels under OMB Control Number 2115–0110. These regulations require a coop, and/or its members, to submit additional certifications as part of the documentation process. Accordingly, the information collection requirements of these regulations are included under OMB Control Number 2115–0110. While it is expected that a small number of entities may incur a slight increase in burden hours as a result of these regulations, the Coast Guard will account for the increased burden in its periodic reports to OMB under the Paperwork Reduction Act.

Federalism

The Coast Guard has analyzed these regulations in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environmental

The Coast Guard has considered the environmental impact of this rule and has concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. Section 2.B.2(1) of the Instruction excludes administrative actions or procedural regulations which clearly do not have any environmental impact. While these regulations allow documentation, for limited purposes, of vessels used in oil spill cleanup, they are not expected to affect the numbers or availability of those vessels. Therefore, this rulemaking is included appropriately in this category. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

List of Subjects in 46 CFR Part 68

Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 68 as follows:

PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS

1. The authority citation for part 68 is revised to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46. Subpart 68.01 also issued under 46 U.S.C. App. 876; subpart 68.05 also issued under 46 U.S.C. 12106(d).

2. Subpart 68.05 is added to read as follows:

Subpart 68.05—Documentation of Certain Vessels for Oil Spill Cleanup

Sec.

Subpart 68.05—Documentation of Certain Vessels for Oil Spill Cleanup

§ 68.05–1 Purpose and scope.

This Subpart contains citizen ownership requirements and procedures to allow documentation of vessels which do not meet the requirements of part 67 of this chapter. The requirements are for the limited purposes of training for, implementing, and supporting oil spill cleanup operations.

§ 68.05–3 Definitions for purposes of this subpart.

Certificate of Documentation means form CG–1270.

Citizen means a citizen as described in part 67 of this chapter.

Exclusive Economic Zone or *EEZ* means the exclusive economic zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

Not-for-profit oil spill response cooperative means a corporation, partnership, association, trust, joint venture, or other entity established under the laws of the United States, or of a State, with a not-for-profit status and for the limited purposes of training for, carrying out, and supporting oil spill cleanup operations or related research activities.

§ 68.05–5 Citizenship requirements for limited coastwise endorsement.

(a) Notwithstanding the citizenship requirements set out in part 67 of this chapter, a Certificate of Documentation with a coastwise endorsement for the limited purposes provided in § 68.05–9 may be issued to a vessel owned by—

(1) A not-for-profit oil spill response cooperative if the vessel meets the requirements of paragraph (b) of this section; or

(2) A member or members of a not-for-profit oil spill response cooperative if the vessel meets the requirements of paragraphs (b) and (c) of this section.

(b) The vessel must be at least 50 percent owned by one or more of the following entities:

(1) An individual who is a native-born, naturalized or derivative citizen of the United States or otherwise qualifies as a United States citizen.

(2) A corporation incorporated under the laws of the United States or of a State where—

(i) The president and, if the president is not the chief executive officer, the chief executive officer, by whatever title, is a citizen;

(ii) The chairman of the board of directors is a citizen; and

(iii) No more of the directors are non-citizens than a minority of the number necessary to constitute a quorum.

(3) A partnership where all the general partners are citizens and at least 50 percent of the equity interest is owned by citizens.

(4) An association or joint venture where all the members are citizens.

(5) A trust where all the trustees and all the beneficiaries with an enforceable interest in the trust are citizens.

(c) The vessel must be owned by a member or members of a not-for-profit oil spill response cooperative who dedicate the vessel to the use of a not-for-profit oil spill response cooperative.

(d) A vessel which meets the criteria of this section is considered to be owned exclusively by citizens of the United States for the purposes of subsequent transfer and documentation under part 67 of this chapter.

§ 68.05–7 Vessel eligibility requirements for limited coastwise endorsement.

(a) A vessel must comply with all the requirements of part 67 of this chapter, other than citizenship requirements, in order to be eligible for documentation under this subpart.

(b) Notwithstanding 46 U.S.C. App. 883, a vessel remains eligible for documentation under this subpart even if the vessel was formerly owned by a not-for-profit oil spill response

cooperative or by one or more members of a not-for-profit oil spill response cooperative and the vessel meets the criteria of § 68.05–5.

§ 68.05–9 Privileges of a limited coastwise endorsement.

(a) A vessel which is documented and issued a limited coastwise endorsement under this subpart may operate on the navigable waters of the United States or in the EEZ in coastwise trade only for the following purposes:

(1) To recover oil discharged into the water.

(2) To transport oil discharged into the water.

(3) To transport and deploy equipment, supplies, and personnel for recovering and transporting oil discharged into the water.

(4) To conduct training exercises to prepare for performing the functions in paragraphs (a)(1) through (a)(3) of this section.

(b) This limited coastwise endorsement also entitles the vessel to any other employment for which a registry, fishery, or Great Lakes license is not required.

(c) A vessel which is documented and issued a limited coastwise endorsement under this subpart may qualify to operate for other purposes by meeting the applicable requirements of part 67 of this chapter.

§ 68.05–11 Application to document a vessel under this subpart.

(a) To qualify to document a vessel or to accept the dedication of a vessel by a member or members under this subpart, a not-for-profit oil spill response cooperative shall file with the Commandant the certificate under oath as set forth in Appendix A to this subpart.

(b) Upon the filing of the certificate under paragraph (a) of this section, the Commandant will furnish the not-for-profit oil spill response cooperative with a letter of qualification. The letter of qualification is valid for a period of three years from the date of its issuance, unless there is a change in membership or structure of the not-for-profit oil spill response cooperative or a change in the citizenship status of any of its members requiring a report under § 68.05–13. In order to renew the letter of qualification, a new certificate under oath must be filed with the Commandant at least 30 days before the date of expiration of the letter of qualification.

(c) A not-for-profit oil spill response cooperative seeking to document a vessel for a limited coastwise endorsement under this subpart, in addition to complying with the requirements of § 68.05–7(a), shall supply to the documentation officer where application is made, a copy of the letter of qualification issued under paragraph (b) of this section.

(d) A member or members of a not-for-profit oil spill response cooperative seeking to document a vessel under this subpart shall supply to the documentation officer where application is made, a copy of the letter of qualification issued under paragraph (b) of this section to the not-for-profit oil spill response cooperative to which the vessel is dedicated. In addition, the not-for-profit oil spill response cooperative and the vessel owners shall all certify under oath that the vessel for which application is made is dedicated to use by the not-for-profit oil spill response cooperative. This certification must use the format and content described in appendix B to this subpart. If there is a change in the dedicated status of the vessel or its ownership, a report under § 68.05–13 must be filed.

(e) The application for a Certificate of Documentation shall be filed with the documentation officer at the documentation office at the vessel's home port or the port of documentation nearest to where the vessel is located.

§ 68.05–13 Cessation of qualifications.

(a) If the vessel is owned by a not-for-profit oil spill response cooperative and a change occurs which affects the validity of the certificate required by § 68.05–11(a), or the ownership of the vessel changes so that it no longer meets the criteria of § 68.05–5, the qualification for the privileges enumerated in § 68.05–9 is terminated effective as of the date and time of the change. The not-for-profit oil spill response cooperative shall report the change in writing to the Commandant.

(b) If the vessel is owned by a member or members of a not-for-profit oil spill response cooperative and a change occurs which affects the validity of the certificate required by § 68.05–11(a), or the ownership of the vessel changes so that it no longer meets the criteria of § 68.05–5, the qualification of the member or members for the privileges enumerated in § 68.05–9 is terminated effective as of the date and time of the change. The member or members shall report the change in writing to the Commandant.

(c) When qualifications are terminated under this section, the certificate of documentation issued under this subpart must be surrendered or exchanged in accordance with part 67 of this chapter.

Appendix A to Subpart 68.05—Oath for Qualification of a Not-For-Profit Oil Spill Response Cooperative

Department of Transportation. U.S. Coast Guard

Oath for Qualification of a Not-For-Profit Oil Spill Response Cooperative [46 U.S.C. 12106(d)]

Cooperative:

Name _____

Address _____

Jurisdiction where incorporated or organized _____

Affiant:

Name _____

Address _____

Cooperative _____

Title or Capacity _____

I, the affiant, swear that I am legally authorized to make this oath and hold the capacity so bestowed upon me as _____, on behalf of the _____ cooperative and its members, that it is a not-for-profit cooperative, and that it is engaged in training for, carrying out, or supporting oil spill cleanup operations or related research activities.

That all members of the cooperative who may use the letter of qualification issued to this cooperative are truly and correctly named, including home address and citizenship of each on the attached listing incorporated in and made a part of this oath.

Signature _____

Subscribed and sworn to before me on the day and year shown.

_____

(Notary Public)

Date _____

Appendix B to Subpart 68.05—Oath for Documentation of Vessels for Use by a Not-For-Profit Oil Spill Response Cooperative

Department of Transportation, U.S. Coast Guard

Oath for Documentation of Vessels For Use by a Not-For-Profit Oil Spill Response Cooperative [46 U.S.C. 12106(d)]

Cooperative:

Name _____

Address _____

Jurisdiction where incorporated or organized _____

I, the undersigned officer of _____, a not-for-profit oil spill response cooperative, swear that I am legally authorized to make this oath on behalf of the cooperative, and its members and that the cooperative has accepted the vessel _____.

I/we _____, am/are the owner(s) of the vessel. I/we further swear that the vessel has been dedicated to the exclusive use of the cooperative for the purpose of training for, carrying out, or supporting oil spill cleanup operations or related research activities for discharges of oil into the navigable waters of the United States and the Exclusive Economic Zone and that the cooperative has accepted the vessel.

For the Cooperative:

Name _____

Address _____

Cooperative _____
Title or Capacity _____
For Each Vessel Owner:
Name _____
Cooperative _____
Title or Capacity _____
Subscribed and sworn to before me on the day and year shown.

_____
(Notary Public)
Date _____

Dated: January 17, 1992.

A.E. Henn,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection

[FR Doc. 92-4906 Filed 3-2-92; 8:45 am]

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